

A NATIONAL FRAMEWORK FOR THE REVIEW AND LABELING OF BIOTECHNOLOGY IN FOOD

HEARING BEFORE THE SUBCOMMITTEE ON HEALTH OF THE COMMITTEE ON ENERGY AND COMMERCE HOUSE OF REPRESENTATIVES ONE HUNDRED FOURTEENTH CONGRESS FIRST SESSION

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THURSDAY, JUNE 18, 2015

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON HEALTH,
COMMITTEE ON ENERGY AND COMMERCE,
Washington, DC.

The subcommittee met, pursuant to call, at 10:03 a.m., in room 2123, Rayburn House Office Building, Hon. Joseph R. Pitts (chairman of the subcommittee) presiding.

Present: Representatives Pitts, Guthrie, Whitfield, Shimkus, Murphy, Burgess, Blackburn, Lance, Griffith, Bilirakis, Ellmers, Bucshon, Brooks, Collins, Upton (ex officio), Green, Capps, Schakowsky, Butterfield, Castor, Sarbanes, Schrader, Kennedy, and Pallone (ex officio).

Also Present: Representatives Pompeo and Welch.

Staff Present: Clay Alspach, Chief Counsel, Health, Sean Bonyun, Communications Director; Leighton Brown, Press Assistant; Karen Christian, General Counsel; Noelle Clemente, Press Secretary; Carly McWilliams, Professional Staff Member, Health; Tim Pataki, Professional Staff Member; Graham Pittman, Legislative Clerk; Chris Sarley, Policy Coordinator, Environment & Economy; John Stone, Counsel, Health; Dylan Vorbach, Staff Assistant; Greg Watson, Staff Assistant; Christine Brennan, Minority Press Secretary; Jeff Carroll, Minority Staff Director; Eric Flamm, Minority FDA Detailee; Tiffany Guarascio, Minority Deputy Staff Director and Chief Health Advisor; Samantha Satchell, Minority Policy Analyst; and Kimberlee Trzeciak, Minority Health Policy Advisor.

OPENING STATEMENT OF HON. JOSEPH R. PITTS, A REPRESENTATIVE IN CONGRESS FROM THE COMMONWEALTH OF PENNSYLVANIA

Mr. PITTS. Good morning. I ask that all of our guests today please take their seats. The subcommittee will come to order. The chair will recognize himself for an opening statement.

Genetically modified organisms, or GMOs, is a term that refers to ingredients sourced from crops that have been genetically engineered to express certain traits or characteristics.

There are real sensitivities around these issues and all issues regarding the food we eat and feed our children and grandchildren. It is our job, as policymakers, particularly as it relates to the public health, to establish a factually and scientifically sound foundation prior to taking any action that would impact consumers and our economy.

This hearing provides a great opportunity to put rhetoric aside and do just that. Genetic engineering in agriculture has occurred for centuries. Ingredients from genetically engineered plants have been a part of the U.S. Food supply for decades.

In fact, as much as 90 percent of our corn, sugar beet, and soybean crops are now genetically engineered and more than 70 percent of processed foods contain ingredients derived from such crops.

The Food and Drug Administration oversees the safety of all food products from plant sources, including those from genetically engineered crops. These products must meet the same safety requirements as foods from traditionally-bred crops. The FDA currently has a consultation in place which developers of the underlying technologies address any outstanding safety or other regulatory issues with the agency prior to marketing their products.

FDA has completed approximately 100 of such consultations. No products have gone to market until FDA's safety-related questions have been resolved. FDA officials have repeatedly stated that the agency has no basis for concluding that bioengineered foods are different from other foods in any meaningful way, and the World Health Organization has confirmed that "No effects on human health have been shown as a result of consumption of such foods." In fact, they can grow faster, resist diseases and drought, cost less, and prove more nutritious. Nonetheless, there have recently been a number of State initiatives calling for the mandatory labeling of food products that contain GMOs.

We will hear today from a number of witnesses who can speak to such actions and the impact they would have. I am concerned that a patchwork of State labeling schemes would be impractical and unworkable. Such a system would create confusion among consumers and result in higher prices and fewer options.

Finally, I want to commend Representative Mike Pompeo and Representative Butterfield for their leadership on these issues and look forward to learning more about their continued efforts to work in a bipartisan manner on H.R. 1599, the Safe and Accurate Food Labeling Act of 2015. All these efforts will continue as the legislative process moves forward. I am encouraged that the revised language circulated in advance of this hearing has been informed by conversations between the sponsors, the committees of jurisdiction, the implementing agencies, and the impact of stakeholders.

I would like to welcome all of our witnesses for being here today. I look forward to your testimony. And I yield the balance of my time to distinguished vice chairman of the full committee, Representative Blackburn of Tennessee.

[The prepared statement of Mr. Pitts follows:]

PREPARED STATEMENT OF HON. JOSEPH R. PITTS

The Subcommittee will come to order.

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economy. This hearing provides a great opportunity to put rhetoric aside and do just that.

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Finally, I want to commend Rep. Mike Pompeo (R-KS) and Rep. G.K. Butterfield (D-NC) for their leadership on these issues, and I look forward to learning more about their continued efforts to work in a bipartisan manner on H.R. 1599, the Safe and Accurate Food Labeling Act of 2015. While these efforts will continue as the legislative process moves forward, I am encouraged that the revised language circulated in advance of this hearing has been informed by conversations between the sponsors, the committees of jurisdiction, the implementing agencies, and impacted stakeholders.

I would like to welcome all of our witnesses for being here today. I look forward to your testimony. I yield to _____.

Mrs. BLACKBURN. Thank you, Mr. Chairman.

Welcome to all. And the chairman mentioned the food that we eat and that we feed our children and grandchildren. I want to add one category to that, what we feed our pets. And we are concerned about that aspect also.

I do appreciate Mr. Pompeo and the assistance they have given us as we look at pet food labeling. And the chairman also mentioned that we have had these products in the marketplace for decades. I would say we are talking about over 100 years. Go back and look at what farmers did. And they would breed cattle to get the best traits. Look at the work that George Washington Carver did in his 40 years of teaching and research at Tuskegee, looking for ways to improve the soil, looking at different varieties of peanut and sweet potatoes and improving the health of individuals in the south.

Genetically modified foods are components that are indeed with us, and it is because of them that we have greater yields per acre; we have more varieties, and that our farmers markets that I visit every single weekend are full of beautiful products that encourage people to access these fresh foods and bring them into their homes and kitchens.

With that, I thank all for their work. I yield back.

Mr. PITTS. The chair thanks the gentlelady.

Now I recognize the ranking member of the subcommittee, Mr. Green for 5 minutes.

Mr. GREEN. Mr. Chairman, I was glad our vice chair of the subcommittee worried about our pets. My problem is I had a dog one time that ate pillows and curtains and everything else. I think he ate everything he could get his mouth on.

Mr. Chairman, I have a statement I would like to put into the record, but I would like to yield my time to Congressman Butterfield.

Mr. PITTS. Without objection, so ordered.
[The prepared statement of Mr. Green follows:]

PREPARED STATEMENT OF HON. GENE GREEN

Good morning and thank you all for being here today.

Genetically Modified Organisms, or GMO's, first hit the market around 20 years ago and in the years since, have only expanded in prevalence. Nowadays, most corn, sugar beets, canola and cotton crops grown in the U.S. are genetically modified.

Today, as we debate whether there is a need for a national framework for the labeling of GMO ingredients, I feel it is important to first talk about the safety and science of genetically modified organisms.

The FDA has conducted evaluation after evaluation on GMOs through their voluntary consultation process, and consistently found no material difference between the GMO and their non-modified counterparts. Moreover, there have not been any cases where FDA found that a genetically modified organism was unsafe for consumption.

Genetically Modified food is not only safe for consumption, but has a positive environmental impact. A comprehensive study by the National Academy of Sciences found that GMO's have significantly increased crop yields while decreasing pesticide use and soil erosion.

The benefits of GMOs are not limited to environmental stewardship. Norman Borlaug, the father of the "Green Revolution" and recipient of the Noble Peace Prize is credited with saving a billion lives through his creation of Dwarf Wheat, a genetically modified plant that doubled the crop yield in Pakistan and India, dramatically improving food security in those countries.

Even today, Golden Rice, a crop containing biosynthesized beta-carotene is essential in combatting Vitamin A deficiency in Asia. This GMO crop is credited with saving the lives of 670,000 children under the age of 5 every year. At this point, it has clearly been demonstrated that GMO technology is not only safe, but of immense benefit to society.

Most analysts estimate that 80% of packed foods in the u.s. contain genetically modified ingredients or plants. When it comes to mandatory labeling, food labels should impart useful, scientifically-sound information to consumers. With that said, consumers who want to know the origin and process of their food should have access to that information through a voluntary and certified GMO-Free label that they can be confident in. I feel that H.R. 1599, the Safe and Accurate Food Labeling Act moves us towards that goal.

At the same time, any proposed legislation that preempts existing State Law must be considered with careful scrutiny. Congress must have a compelling reason to create a national standard. I look forward to hearing from our witnesses today on the proposed legislation, science of genetically modified food, and perspectives on the current state-by-state patchwork.

Thank you Mr. Chairman and I yield back.

OPENING STATEMENT OF HON. G.K. BUTTERFIELD, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NORTH CAROLINA

Mr. BUTTERFIELD. Thank you very much, Mr. Green and Mr. Pitts. Before beginning, Mr. Chairman, I just want to publicly extend my condolences to the families of the nine victims in Charleston, South Carolina who were horrifically murdered last night

while attending a prayer meeting. So thank you, Mr. Chairman, for allowing me to digress for just a moment to offer my sympathies to those families.

Mr. Chairman, I support H.R. 1599. I am the bill's lead democratic co-sponsor. This bill is bipartisan. It proposes a national labeling standard for foods produced with genetically modified ingredients. The alternative is a complex and unworkable patchwork of differing state laws that can only cause confusion and do little to provide greater transparency. Several states have moved forward with proposals that would require foods containing ingredients to be labeled. This is in response to unsubstantiated claims that foods containing genetically modified ingredients are, in some way, dangerous in human consumption. I take exception to these unfair and downright dishonest claims.

Foods containing genetically modified ingredients are safe. The FDA, USDA, National Academy of Sciences, AAAS, the WHO, every major scientific and governmental organization agrees with that statement. Even opponents of genetically modified foods admit genetically modified foods have failed to produce any untoward health effects. But the demonization of genetically modified foods continues despite objective science proving to the contrary.

Those opposed to genetically modified foods simply reject science, and that is tremendously disappointing. And though I stand with science and my belief that these foods are safe, I understand the concerns expressed by the opponents and want to be responsive. That is why I have worked with my friend, Mr. Pompeo, and others in advocating for a Federal framework for labeling and crop commercialization that puts the FDA and USDA, our Nation's foremost food safety authorities, putting them in the driver's seat. 1599 is a balanced approach that reduces confusion by providing consumers with labeling uniformity across state lines that addresses the concerns of those who are opposed to genetically modified foods while not neglecting the fact that our Nation's farmers and manufacturers grow and produce foods that are so far and wide and not just within a state's borders. Without a Federal standard, Mr. Chairman, those farmers and manufacturers will be forced to comply with uneven costly and potentially misleading and onerous state-by-state mandates. Compliance will require new costly supply chain infrastructure that would disrupt the Nation's food supply, cause confusion and uncertainty. 1599 is reasonable. And most importantly, it is workable.

I want to thank the more than 60 bipartisan co-sponsors for joining me and Mr. Pompeo in agreeing that our bill is the best way forward.

I yield the remainder of my time to Mr. Welch of Vermont.

Mr. WELCH. I thank the gentleman. The issue here is not so much whether GMOs are safe. The issue is whether individual purchasers, consumers, who purchase food have a right to know that GMOs are part of the food they are buying. It is a consumer right-to-know issue. I agree with my colleagues that a national standard would be good, but there is no national standard in this bill. It is a voluntarily labeling, which means there will be no labeling whatsoever.

Many states are reflecting the desires of their consumers to basically know what is in the product they are buying, and the consumer has the right to do that. They just do. And this legislation is ironic in this sense: If GMOs are so safe, and I am not here to challenge that assertion, but if they are so safe, why not label so that folks who are getting what the manufacturers assert is so safe know that their product will be labeled and consumers can then make their own decision. My question really is, if they are so safe, why would anyone be afraid of labeling those products so that consumers would have a right to know?

Now, in Vermont we have our assistant attorney general here, Todd Daloz, who is going to talk about what we have done in Vermont. Three States have passed labeling laws. Several others are considering them. There have been referendums that almost passed in California and it is reflecting this groundswell of desire that consumers have to know what is in the products that they are buying.

Now, I am going to play a little unfair here, Mr. Chairman, because I am here today to give Mr. Pompeo——

Mr. POMPEO. Finally.

Mr. WELCH [continuing]. And Mr. Butterfield a GMO free labeled pint of the most nutritious product on planet earth, and that is Ben and Jerry's ice cream. And this is labeled, and it sells. People love this.

I will yield back.

Mr. PITTS. The gentleman's time has expired.

The chair recognizes the chair of the full committee, Mr. Upton, 5 minutes for opening statement.

OPENING STATEMENT OF HON. FRED UPTON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN

Mr. UPTON. Good morning. We continue our examination of the role biotechnology plays in our Nation's farms and in our food supply. Our food, as we know, is literally our lifeline. It is important for the public to be engaged. It is the job of this subcommittee to establish a record based on the facts and the science so we ultimately pass legislation that is in the best interest of our constituents and our economy.

At the hearing that we held in December of last year and in other venues since then, the FDA has been clear that the pre-market consultation process currently in place to review food produced from genetically engineered crops is rigorous and the agency has no basis for questioning its safety. The WHO and every other legitimate health and scientific body that has examined this evidence has echoed the FDA's findings. Nonetheless, there are a number of state-specific labeling requirements in various stages of consideration that are inconsistent, potentially confusing to consumers, would increase food costs that cast out over the safety of biotechnology.

Mr. Pompeo and Butterfield have been working tirelessly on a bipartisan basis in putting together a clear, understandable national framework that maintains FDA'S current review process, codifies Federal labeling standards and related requirements, establishes a certification process that the Department of Agriculture, consistent

with current organic program, for the labeling of products as being produced or developed without the use of genetic engineering.

The draft amendment to H.R. 1599 circulated before this hearing is another step in the right direction, and I commend the Ag Committee for working with us to get the bill through the House to ensure consumers will have a clear, concise, and consistent system to assist in their food choices. I yield the balance of my time to Mr. Pompeo.

[The prepared statement of Mr. Upton follows:]

PREPARED STATEMENT OF HON. FRED UPTON

Good Morning. Thank you Chairman Pitts for holding this important hearing to further examine the role biotechnology plays on our nation's farms and in our food supply. I understand that this is a sensitive issue and one that folks are passionate about. It is the job of this subcommittee to establish a record based on the facts and the science and, as we have done so many times this Congress, pass legislation that is in the best interests of our constituents and our economy.

At the hearing we held on these issues in December and in other venues since, FDA has been very clear that the premarket consultation process they currently have in place to review food produced from genetically engineered crops is rigorous and the agency has no basis for questioning their safety. This position is shared by the World Health Organization and every other legitimate health and scientific body that has examined the evidence.

Nonetheless, there are a number of state-specific labeling requirements in various stages of consideration that are inconsistent and would cast doubt over the safety of biotechnology, confuse consumers, and increase food costs. Fortunately, Congressmen Mike Pompeo (R-KS) and G. K. Butterfield (D-NC) have been working tirelessly on putting together a national framework that maintains FDA's current review process, codifies federal labeling standards and related requirements, and establishes a certification process at the Department of Agriculture-consistent with the current organic program-for the labeling of products as having been produced or developed without the use of genetic engineering.

The draft amendment to H.R. 1599 circulated before this hearing is another step in the right direction and I commend the Agriculture Committee for working with us to get this bill to the House floor as soon as possible. With that, I yield the balance of my time to Mr. Pompeo.

Mr. POMPEO. Thank you.

Thank you, Mr. Chairman, for yielding.

I want to thank Chairman Pitts and Ranking Member Green for holding this hearing. I appreciate it. I very much want to thank Mr. Butterfield, too. We have been working on this for quite some time, and I think we are making fantastic progress. I also thank Mr. Welch for the ice cream as well. I hope it was Chunky Monkey. I couldn't see exactly what it was.

And I want to thank all the witnesses for being here today as well so that we can get the facts about both the technology and this legislation.

The fact is scientific consensus on the safety of genetically engineered products is overwhelming. Precisely zero pieces of credible evidence have been presented to show that food produced with biotechnology poses any risk to health and safety of consumers.

Before the idea that the government at any level should step in and mandate that they be labeled borders on the absurd. Expanding government at any level to enshrine preferences into a costly legal requirement is bad policy.

What policymakers need to realize is that this bad policy has real effects on families we represent in our districts. Those who support mandatory genetically engineered product labeling must stand up

and admit they are willing to increase the cost for foods for families in places like Wichita, and Houston, and Grand Rapids, and New York in order to satisfy the unscientific demands of anti-biotechnology activists. Our goal here must be to ensure that families in America have access to safe, nutritious, affordable food for their kids and families. Having hundreds of different governments, state and local, regulating food labeling, increases costs to families across America and for no benefit.

We should also consider the effects of biotechnology on the ability to feed the world. Providing affordable food around the planet is something that Americans and Kansans are going to need to be an important part of, and allowing biotechnology to flourish will be an important part of getting this policy right.

The potential amendment we are considering on H.R. 59 and the one that we are reviewing today is the result of much conversation between the Energy and Commerce Committee and Ag Committee, and I appreciate their work alongside us. Like the current language this amendment ensures that every new genetically engineered plant destined to enter our Nation's food supply goes through an FDA safety review.

Additionally, this amendment improves our bill by aligning USDA and FDA responsibilities to ensure that a thorough and complete review of these products is done. I have a letter from over two dozen members of the Agriculture Committee, Mr. Pitts, that I would like to enter into the record dated June 18th.

Mr. PITTS. Without objection, so ordered.

[The information appears at the conclusion of the hearing.]

Mr. POMPEO. Thank you.

The reality is that biotechnology, time and time again, has been proven safe. This is simply not a debatable point. Our policy ought to reflect that, and we shouldn't raise the price for consumers based on a desire of a particular set of activists.

Thank you, again, Mr. Pitts, and I look forward to the hearing.

Mr. PITTS. The chair thanks the gentleman.

Now I recognize the ranking member of the full committee, Mr. Pallone, for 5 minutes for opening statement.

OPENING STATEMENT OF HON. FRANK PALLONE, JR., A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW JERSEY

Mr. PALLONE. Thank you, Mr. Chairman.

Today we will hear a range of views on why there should or should not be mandatory labeling of foods from genetically engineered or GE plants, and on why States should and should not be allowed to impose such labeling requirements.

I have been long been a proponent of strong food labeling requirements. I was an original co-sponsor of the Nutrition Labeling and Education Act of 1990. I was a strong advocate for the ACA provision requiring nutrition labeling on menus and sponsored legislation last year, which I will be reintroducing to update and strengthen current FDA nutrition labeling requirements. And I have strongly opposed any attempts to weaken existing labeling requirements, such as the Commonsense Nutrition Labeling bill, which I believe would impede consumer access to nutritional infor-

mation on menus and restaurants, pizza parlors, grocery stores, and convenience stores.

So I am inclined to be skeptical of legislation aimed at limiting, rather than enhancing, information on a food label. At the same time, I recognize that the differences between nutrition labeling and GE labeling may warrant different regulatory approaches. Nutrition labeling provides information and enables consumers to make health-related choices on how they eat. There is no question in my mind the Federal government should food companies to put that information on food labels.

GE labeling is about the breeding techniques used to make agricultural crops. Food from such crops do not share any particular nutritional or health-related properties. A GE label provides no information on the consumption of the food or whether—on the composition of the food on whether it is good for bad for you, on whether it tastes good or bad, or on whether it is safe or unsafe. There is no scientific evidence that GE foods pose safety issues any different from non-GE foods.

I have to admit, when I hear critics argue that GE foods are dangerous, I feel the same way I do when I hear people deny climate change, argue against vaccinating children, or say they aren't scientists when asked if they believe in evolution. So from a science or health perspective, there doesn't seem to be a compelling government interest in forcing a food company to label a food that is made with or without genetic engineering.

That being said, if the State of Vermont wants to require food companies to put such information on their food labels, is there a compelling Federal Government interest in prohibiting them from doing so? Perhaps not. But I do think there is a compelling Federal interest in preventing any labeling that is false or misleading consistent with current law.

If mandatory GE labeling were inherently misleading, for example, because it implied that GE food was somehow inferior to normal food, that would seem to be a compelling reason to prohibit it. I am so far not convinced that the requirement imposed by Vermont would be inherently misleading. I would be interested in hearing from our panelists today on that question.

Now, there may be a compelling Federal interest from preventing companies from having to face 50 different food labeling regimes. In fact, it was a fear of such unworkable set of State food labeling requirements that led food companies and restaurants ultimately to support Federal requirements for nutrition labeling. To avoid a 50-state problem, there are two obvious solutions: We can band right-to-know labeling requirements outright, or we can replace them with a uniform Federal mandatory GE labeling requirement, but I personally think a voluntary labeling approach is more appropriate for GE labeling. I also don't believe in preempting State law without good reason.

So I think this is an important hearing, Mr. Chairman. There are a number of competing issues to weigh before moving forward on legislation, and I hope we will take our time in considering them. I yield back.

Mr. PITTS. The chair thanks the gentleman.

That concludes the opening statements of the members. As usual, all written opening statements of the members will be made a part of the record.

We have one panel today. I will introduce them in order of their presentations. First, Mr. Rick Blasgen, president and chief executive officer of the Council of Supply Chain Management Professionals; secondly, Mr. Todd Daloz, assistant attorney general, Office of Vermont Attorney General; thirdly, Mr. John Reifsteck, chairman of the board and president of GROWMARK, Inc.; then Greg Jaffe, Biotechnology Project director, Center for Science in the Public Interest; and, finally, Mr. Val Giddings, senior fellow, Information Technology & Innovation Foundation.

Thank you, all, for coming. Your written testimony will be made part of the record. You will each be recognized for 5 minutes to summarize your testimony.

You have a series of lights on the table; green, yellow will go on with one minute left, red, we will ask that you please wrap up. And if you want to take less than 5 minutes, that is OK. We are going to have to run a tight gavel this morning.

So, Mr. Blasgen, you are recognized for 5 minutes for your summary.

STATEMENTS OF RICK BLASGEN, PRESIDENT AND CHIEF EXECUTIVE OFFICER, COUNCIL OF SUPPLY CHAIN MANAGEMENT PROFESSIONALS; TODD W. DALOZ, ASSISTANT ATTORNEY GENERAL, OFFICE OF THE VERMONT ATTORNEY GENERAL; JOHN REIFSTECK, CHAIRMAN OF THE BOARD AND PRESIDENT, GROWMARK, INC.; GREGORY JAFFE, BIOTECHNOLOGY PROJECT DIRECTOR, CENTER FOR SCIENCE IN THE PUBLIC INTEREST; AND L. VAL GIDDINGS, SENIOR FELLOW, INFORMATION TECHNOLOGY & INNOVATION FOUNDATION

STATEMENT OF RICK BLASGEN

Mr. BLASGEN. Thank you very much, and good morning, Chairman Pitts and Ranking Member Green, and members of the subcommittee. My name is Rick Blasgen. I am president and chief executive officer of the Council of Supply Chain Management Professionals representing well over 8,500 members globally. Prior to joining CSCMP I was senior vice president for Integrated Logistics and ConAgra Foods, and in similar positions at Kraft Foods as well as Nabisco. I have been president and CEO of CSCMP since 2005. In this capacity, I serve as the primary issue expert relating to logistics and supply chain management.

I want to thank you very much for inviting me to explain the importance of national labeling frameworks. I will focus my remarks on the costs associated with Vermont's labeling mandate, a law that goes into effect on July 1, 2016, and imposes incalculable burdens on our Nation's largest manufacturing sector.

Grocery manufacturing is a high-volume, low-margin business, and any increase in cost, even by a matter of cents, can substantially affect a manufacturer and its supply chain. The primary cost centers in the supply chain are the cost of source materials, capital, operations, labor, storage, distribution centers, transportation,

maintenance, and, of course, fuel. The supply chain for a processed food begins with the raw commodity. The supplier sells the raw food to a manufacturer, and the manufacturer stores the food at the plant until it is processed into its ingredient form. That ingredient may be the final product, such as in cooking oils, or it may be used in products containing multiple ingredients.

Finished goods are sent to a manufacturer's distribution center where they are stored until ready for transport into the customer's distribution center. The customer may be a national or regional chain or a regional distributor that sells to other retail outlets. The customer stores the finished goods at its center and distributes them to its retail outlets where they are sold finally to consumers. A manufacturer typically plans each stage of the supply chain to ensure it is handled as efficiently as possible. The core unit in a grocery manufacturer supply chain is the stock keeping unit, or SKU. This SKU is simply a unique identifying number that applies to each distinctly packaged and marketed product.

A single national SKU facilitates efficient storage, distribution, and inventory tracking. Manufacturers do not create different SKUs for different states. Vermont's legal time clock is ticking, and manufacturers will have to determine which products contain ingredients likely derived from GE crops. Companies will navigate Vermont's exemptions, such as foods bearing USDA-approved labels. Restaurant food is also exempted, and this could impact segregation and transportation costs. Each exemption provides more complexity to the supply chain, less clarity for consumers, and more red tape for manufacturers.

Manufacturers will have to make new labels with state-approved text and design. Labeling materials are one of the largest expenses affecting a manufacturer's bottom line. And the inventory left over when a manufacturer implements a labeling change must be discarded, which is a waste not only of materials, but the money the manufacturer may have spent in anticipation of using that stock. Waste and recycling charges will also apply.

At the processing facility, let's assume it takes 5 minutes to stop and start to accommodate the new package. This reduces production time as the companies pay for the lost time and labor, energy, and capital costs of depreciation.

Now assume a single plant with 10 lines running simultaneously, each with one Vermont run per payday, over 300 days in the year. That makes 500 lost hours per year, or about 3 weeks of idle time. These assumptions are meant for illustration with respect to only one single plant. Large manufacturers may have dozens of plants, and each plant may have dozens of production lines. The Vermont products would then need to be segregated from the other products and be placed on their own pallets. Pallets take up space wherever they go. They will take up space in warehouses, on trucks, and at customer distribution centers. These Vermont pallets must have sufficient space to reduce the risk of product being shipped to the wrong state; namely, product not intended for Vermont ending up on shelves there.

Manufacturers would have to renovate or purchase new storage space or real estate. Additional pallets means additional trucks will be needed to transport products to customers. The trucks are cap-

ital investments with ongoing maintenance needs and associated labor costs. And this is just on the manufacturing end of the supply chain. The products intended for Vermont must then go through distributors and/or retailer supply chain systems who purchase the product and thus, then, own it exponentially increasing the costs to service Vermont and also increasing the chance for error.

Despite best efforts, mistakes will be made. One manufacturer calculates that 7 to 10 percent of non-Vermont product could be shipped to Vermont in error. That manufacturer will face penalties of \$1,000 per day per product. For a large company that has 2,500 SKUs, could translate to 175,000, or \$250,000 in daily fines. Multiplied by thousands of products among multiple companies, these fines quickly reach tens of millions of dollars. Products would long shelf lines greater than 18 months that are currently in distribution or already on the shelves will be subject to fines.

Mr. Chairman, from a supply chain logistical perspective, this law really is a nightmare. U.S. Consumers benefit from the safest and most efficient food supply in the world. I urge Congress to protect our national food system from an unnecessary patchwork of state-labeling schemes that will hurt American employers and do nothing to protect consumers.

I thank you very much for your time.

[The prepared statement of Mr. Blasgen follows:]

**Rick Blasgen, President and Chief Executive Officer
Council of Supply Chain Management Professionals
U.S. House of Representatives Energy and Commerce Subcommittee on Health
“A National Framework for the Review and Labeling of Biotechnology in Food “
2123 Rayburn House Office Building
June 18, 2015**

Good morning, Chairman Pitts, Ranking Member Green, and Members of the Subcommittee. My name is Rick Blasgen and I am the President and Chief Executive Officer of the Council of Supply Chain Management Professionals, (CSCMP). Founded in 1963, CSCMP is the preeminent worldwide professional association dedicated to the advancement and dissemination of research and knowledge on supply chain management. With over 8,500 members representing nearly all industry sectors, government, and academia from 67 countries, CSCMP members are the leading practitioners and authorities in the fields of logistics and supply chain management.

I have been the President and CEO of CSCMP since 2005. In this capacity I run the management of the organization, organize educational events, and give speeches on issues relating to logistics and supply chain management.

Prior to joining CSCMP, I was the Senior Vice President for Integrated Logistics at ConAgra Foods, Inc. from 2003-2005. ConAgra is a member of Plaintiff Grocery Manufacturers Association (GMA). Before joining ConAgra, I was the Vice President of Supply Chain at Kraft Foods from 2001-2003. Kraft Foods has since split into two companies, At both ConAgra and Kraft, I oversaw the coordination of supply chains supporting thousands of products, from developing manufacturing replenishment strategies to transportation and distribution to

customers. I routinely interacted with suppliers and customers in these roles. I also managed national operations involving dozens of regional distribution centers in the United States.

My testimony today focuses on the supply chain disruptions and costs resulting from Vermont's Act 120, which requires processed foods entirely or partially produced with genetic engineering to be labeled as "produced with genetic engineering," "partially produced with genetic engineering," or "may be produced with genetic engineering."

Supply Chain Basics

The supply chain for a processed food begins with the supplier of the raw commodity. The supplier sells the raw food to a manufacturer, often pursuant to a long-term supply contract. The manufacturer stores the food at the plant until it is processed into its ingredient form. That ingredient may be the final product (as in cooking oils), or it may be used in a finished food product containing multiple ingredients.

Finished foods are sent to the manufacturer's distribution center, where they are stored until ready for transport to the customer's distribution center. The customer at this stage may be a national or regional chain, or a regional distributor that sells to other retail outlets. The customer stores the finished foods at its center, then distributes them to its retail outlets, where they are sold to consumers.

For example, a corn supplier sells corn to a manufacturer, who processes it at its plant into corn oil. The manufacturer might bottle and sell the oil, or it might use the oil to make another food,

like potato chips (which are fried in oil). These products are stored at the manufacturer's distribution center, then transported to a customer, which for this example is a national retail chain. The chain stores these products in its warehouse, then transports them to its outlets, where they are stocked on the shelves. The bottle of corn oil in this example might have a shelf life of a year or more. The potato chips may have a shelf life of a month or so. Because the retailer owns the products it sells, it is the retailer's responsibility to ensure that damaged or expired products are removed from store shelves.

Because grocery manufacturing is a high-volume, low-margin business, any marginal increase in cost per unit — even by a matter of cents — can substantially affect a manufacturer's operations and bottom line. The primary cost centers in the supply chain described above are the cost of source materials; the capital, operational, and labor costs associated with manufacturing plants; those same categories of costs for storage and distribution centers; and transportation costs, including the cost of fuel.

A grocery manufacturer typically plans each stage of this supply chain in detail to ensure it is handled as safely and efficiently as possible, in an environmentally sustainable manner. One of a manufacturer's most significant concerns is to keep plants running on a constant basis. Manufacturing "downtime" at a plant comes at substantial cost, in terms of capital depreciation, as well as labor costs. Because agricultural production is seasonal, manufacturers must typically plan purchasing and processing schedules far in advance, sometimes years in advance, to avoid production downtime. This planning also benefits the consumer, because it contributes to a steady, safe, and affordable supply of food products to consumers throughout the year.

The core unit in a grocery manufacturer's supply chain is the stock keeping unit, or SKU. The SKU is a unique identifying number that applies to each distinctly packaged and marketed product. Take a favorite candy bar. There will be one SKU for the regular-size candy bar, another for SKU for king-size bar, and another SKU for the bag of separately packaged mini-bars that might be sold around Halloween. The SKU is used to package these products into separate cases, to package the cases onto separate pallets for storage and distribution, and to track sales to distributors. The distributors and retailers use the SKU to track their own inventory. The SKU is typically tied to the Universal Product Code (UPC) that is used by retailers for scanning prices.

Grocery manufacturers' SKUs typically apply uniformly across the United States. Manufacturers do not create different SKUs for different states and might only occasionally create a regional SKU (for market testing, e.g.). A single national SKU facilitates efficient storage, distribution, and inventory-tracking.

Grocery manufacturing plants in the United States make products exclusively, or nearly exclusively, for sale within the United States. Some plants may sell particular products into Canada. The number of these products is likely to be comparatively small, however, because manufacturers tend to site plants close to their ingredient sources, and Canada has a large agricultural sector. Canada also requires food to be labeled in French and English. For these and other reasons, manufacturers make food for other countries in those countries.

Compliance with Act 120

To comply with Vermont's Act 120, a manufacturer must ascertain which of its products, by SKU, will be labeled to reflect the mandatory language and which will not. At the outset, the manufacturer can remove SKUs that are not sold in Vermont, and SKUs that it sells exclusively for food service or restaurant use (Product Exemption 7). For purposes of this explanation, I will assume the manufacturer does not sell meat or milk (Product Exemption 1), alcoholic beverages (Product Exemption 4), or medical food (Product Exemption 8).

With the list of remaining SKUs, the manufacturer would then review each product to determine whether it contains ingredients are likely to be derived from GE crops. If not (as may be the case for a fresh-squeezed juice product, e.g.), the manufacturer would then need to arrange for a certification to be acquired from its upstream suppliers that this is the case. Act 120 also exempts food verified by an independent organization as produced without the knowing or intentional use of genetically engineered ingredients (Food Exemption 6).

For most products, however, at least one ingredient is likely to come from a supplier who has raised or purchased a commodity from a genetically engineered crop, such as corn, soybeans, cotton, or sugar beets. The manufacturer must then ascertain whether the product may qualify for one of Act 120's exemptions for foods for which the only GE ingredient would be a processing aid or enzyme (such as chymosin in cheese), or for which "genetically engineered material" in the aggregate constitutes less than 0.9% of the product by weight. This latter exemption may require testing for some products.

For all other SKUs, the manufacturer must then decide whether to re-label the product (to comply with both the mandatory label and the ban on "natural" and other words); to reformulate the product to use ingredients for which there are no GE varieties (swapping sunflower oil for corn oil, e.g.) and obtain certification; or to select suppliers who do not purchase GE varieties, substitute those ingredients, and obtain certification. The manufacturer must also decide whether it will make these changes just for Vermont, for the greater Northeast region, or the United States as a whole. It is also possible that the manufacturer could choose to stop selling the product to retailers or distributors who sell the product in Vermont.

In the end, for each product in its portfolio, the manufacturer will have eight options:

"National" Solutions

- (1) retain the status quo, and obtain certification for Vermont as needed;
- (2) re-label the product nationally according to Vermont's standard;
- (3) reformulate the product nationally and certify for Vermont;
- (4) substitute non-GE ingredients nationally and certify for Vermont;

Regional or State-Based Solutions

- (5) re-label the product in Vermont or the Northeast
 - (6) reformulate the product sold in Vermont/the Northeast and certify for Vermont;
 - (7) substitute non-GE ingredients in Vermont/the Northeast and certify for Vermont;
- or
- (8) remove the product from the Vermont or Northeast market.

In short, the manufacturer must take some action with respect to every SKU in its portfolio that is not destined for food-service.

It is unlikely that a large, multiline manufacturer would choose a single one of these options for all products across its portfolio. Reformulation may be possible for only a subset of products, and substitution of non-GE ingredients is likely to be cost-prohibitive for most products because the supply of non-GE corn and soybeans is very low and either expensive or simply insufficient in volume. On the other hand, for a product whose only potentially GE ingredient is canola, where a substantial part of domestic production is non-GE, it may be possible to purchase the non-GE variety at reasonable cost. These determinations require careful cost and supply forecasting. Once these decisions have been made, the manufacturer will calculate its estimated demand for source materials, as well as packaging materials such as labeling and cardstock.

Creating Vermont/Northeast Products

Reformulation is probably not an option for many products, and substitution of non-GE ingredients, if it is not impossible in current market conditions, is likely to be cost-prohibitive, at least on a national basis. This means the options for a manufacturer, on most of its products, will be to re-label the product nationally (2); or re-label, reformulate or substitute ingredients for Vermont/the Northeast region (5), (6) and (7); or remove the product from the Vermont market (8).

The Vermont/Northeast-only options — (5), (6), and (7) — would entail the creation of a new, additional SKU for the product, so that the product can be processed, packaged, stored, shipped,

and distributed separately from the original SKU. It may also be necessary for some products to have an additional SKU at the case level to ensure compliance. Take a 20-pack case of granola bars. The case may need its own Vermont/Northeast SKU so that the manufacturer can ensure it is shipped to the correct distributor. The granola bars themselves might also need a separate SKU, if the distributor uses the cases to restock coolers or vending machines.

Each SKU effectively requires the manufacturer to create a separate product stream within the manufacturer's plant and distribution chains. Each batch of product is produced in a continuous "run" at the plant. Each SKU requires a distinct run. For the reformulation or substitution options described above, the manufacturer would have to stop the line before each Vermont/Northeast run, remove the labeling stock, reload the machine with the correct labeling stock, then remove and cleanse the system of the GE ingredients, conduct quality control, and add the non-GE ingredients. After the run of Vermont/Northeast products, the plant would then stop again, and go through the steps to switch back to the original labels and original ingredients

The Vermont/Northeast products would then be placed on their own pallets. This creates a ripple effect down the rest of the system. Pallets take up space wherever they go. They will take up space in warehouses, on trucks, and at customer distribution centers.

Costs Associated With Separate Vermont/Northeast Products

The separate-SKU system I have just described is highly inefficient. The extra downtime added to the plants is incredibly costly. If it takes five minutes to stop and start a line (hypothetically), each separate Vermont/Northeast SKU removes ten minutes from the productive time of the

plant, while manufacturers continue to pay for the ten minutes of labor, energy, and capital costs of depreciation. Now assume a single plant with 10 lines running simultaneously, each with one Vermont/Northeast run per day, over 300 days in the year. That makes 500 "lost" hours per year, or about three weeks of idle time. These assumptions are meant for illustration, with respect to a single plant. Large manufacturers may have dozens of plants, and each plant may have dozens of lines. Five minutes between runs may be realistic for a labeling change but would likely underestimate the amount of time needed to change ingredients. The downtime costs associated with a Vermont/Northeast SKU system are incalculable.

Warehousing and Distribution costs

A manufacturer would have to keep the sizable pallets for Vermont/Northeast SKUs separate, with sufficient space to control the risk of error. This adds up to a great deal of extra space required. A manufacturer who creates these SKUs would likely need to renovate or purchase new storage space or real estate, which are substantial capital costs. Separate storage and additional pallets would also likely slow down overall operations, by adding complexity to the systems, requiring extra trips to move pallets, and simple human error. Additional time would also be needed for quality control. Again, these costs are incalculable.

Similar concerns would apply to transportation and distribution. Additional pallets means additional trucks will be needed to transport products to customers. The trucks are capital investments, with ongoing maintenance needs, and associated labor costs. They also contribute to pollution.

As complexity in a supply chain increases so does the risk of error and the costs associated with it. Vermont/Northeast SKUs add complexity at processing, storage, and distribution stages. It is likely, to the point of certainty that a manufacturer will at some point ship a regular pallet to a Vermont or Northeastern retailer or distributor. If the retailer does not catch the error, and that product ends up on a Vermont shelf, the manufacturer would have violated Act 120. I have been told that 7 to 10 percent of regular pallets could be shipped to Vermont in error and the manufacturer will face penalties of \$1,000 per day, per product. For a large company that has 2,500 SKU's it could translate to a \$175,000 to \$250,000 daily fine. Multiply that by thousands of products among multiple companies and fines could reach the millions.

The opposite situation is also likely to the point of certainty, that a Vermont/Northeast pallet would be shipped elsewhere. If so, that is one less pallet of food that can be sold to Vermont, potentially resulting in disruptions in inventory and revenue loss on that product.

The likelihood is that the shipping errors I have just described would occur across entire shipments of many pallets.

Costs Associated With Relabeling Generally

Implementing a labeling change at any scale, whether state or national, requires significant upfront financing and imposes other indirect costs.

Manufacturers buy labeling materials for their products in large amounts to reduce the cost of labeling per unit. As a result, many manufacturers hold large inventories of labeling materials.

The inventory at a single large manufacturer today may take many years to exhaust. Any inventory left over when a manufacturer implements a labeling change must be discarded, which is a waste not only of materials but the money the manufacturer may have spent in anticipation of using that stock. Waste and recycling charges would likely also apply.

The manufacturer would then have to make new labels with the correct text and design. The manufacturer may handle the design in-house but increasingly manufacturers rely on outside vendors who charge a fee. When the design is finalized, the manufacturer must then purchase the materials, schedule printing time, ship the labels to its plants, and load them into the processing lines.

Each step is costly. Labeling materials are one of the largest expenses affecting a manufacturer's bottom line. Printing new labels also costs money, the amount depending on the size, material, and complexity of the package, but in all cases substantial, comprising material, capital, and labor costs. Shipping costs would likely be higher than usual if a manufacturer has to expedite the process in order to comply by the July 2016 deadline.

Reloading systems with the correct labels also costs the manufacturer in production downtime. Relabeling for Vermont or the Northeast would not necessarily be less expensive than relabeling nationally. In addition to the costs of maintaining the separate SKU system described above, printing labels in smaller state or regional batches increases the cost per unit to the manufacturer. Even an increase of a few cents could result in hundreds of thousands of dollars in additional cost.

Compliance by the Effective Date

Vermont's labeling requirements go into effect on July 1, 2016. If a manufacturer chooses to reformulate or obtain new ingredients the manufacturer has about a year to complete the changes and obtain the required certification for those products by July 1, 2016. If a manufacturer chooses to re-label its products, it will have one year to design new labels, distribute its product through the supply chain, and somehow ensure that the correctly labeled products are on retailer shelves as of July 1, 2016. The state has granted a 6 month compliance window, but products distributed after July 1, 2016 must be compliant.

It is my opinion that very few, if any, large manufacturers in the United States will be able to ensure compliance by that deadline. There are two principal reasons why. First, some products have long shelf lives, like cooking oil or frozen foods. Manufacturers who make these products must ensure the "old" products are off the shelves as of January 1, 2017, and fully replaced with "new" compliant products. For that to occur, the new products must enter the stream of commerce many months before, even as long as a year before. This shortens the time to reformulate or substitute to a year or less, and it makes relabeling of those products in time for compliance virtually impossible.

The second reason compliance is highly unlikely by the compliance date is that manufacturers have hundreds or even thousands of products and multiples of that in SKUs. To comply with Vermont's labeling mandate they will have to conduct a product-by-product and perhaps even SKU-by-SKU review, as described above, to make business determinations about how they will

go about achieving compliance. Those determinations are likely to involve numerous different departments: research, marketing, finance, operations, legal, and regulatory. Meanwhile the company will need to operate its business, addressing all of the issues it ordinarily addresses in its daily operation. It could take two years or more for a review process to run its course within some companies.

Assuming contrary to reality that shelf-life is not a concern, compliance would still be highly doubtful by the effective date. It is too late to reformulate and substitute ingredients in advance of July 1, 2016 because ingredient and supply contracts for 2016 have likely been in place for many months by now. Even if a company decided today to ask its supplier to produce so many acres of non-GE corn or soybeans, those plants would not be ready for harvest until 2017.

The one year allowed for new labeling is also far too short, even removing the concern about shelf life. Those same departments listed above would need far more than one year to review and revise the label for each affected SKU in the manufacturer's portfolio (and this would occur after the business determinations about each of the SKUs, as discussed above).

In summary, I believe Vermont's compliance requires intensive review of each SKU in the company's portfolio; a separate business determination for each incorporating input from numerous departments within the company; significant operational changes for most products; and, barring the adoption of a single national label conforming to Vermont's standard, the creation of a highly inefficient, highly costly, and environmentally damaging stream of parallel production and distribution that is prone to error and likely to generate significant liability risk.

Compliance by the deadline is virtually impossible, and compliance at any point would impose irreversible, burdens on the company's bottom line.

If a manufacturer rationally responds to these changes by exiting the Vermont market, or by raising prices, it would necessarily suffer a loss of sales revenue, not to mention a substantial decline in its goodwill with customers.

Mr. Chairman, U.S. consumers benefit from the safest and most cost efficient food supply in the world. I urge Congress protect our national food system from an unnecessary patchwork of state labeling schemes that will hurt American employers and do nothing to protect consumers.

Thank you for your time.

Mr. PITTS. The chair thanks the gentleman.
I recognize Mr. Daloz for 5 minutes for an opening statement.

STATEMENT OF TODD DALOZ

Mr. DALOZ. Thank you. Chairman Pitts, Ranking Member Green, Congressman Welch, and members of the subcommittee, thank you for the opportunity to testify today. As you are well aware, the State of Vermont has been deeply involved in the labeling of food produced with genetic engineering, passing a law requiring such labeling, which will take effect a little over a year from now. Vermont's Attorney General, Bill Sorrell, is tasked with the enforcement of this law and has adopted regulations implementing the law. My name is Todd Daloz, I am an assistant attorney general, and I am testifying today on behalf of Attorney General Sorrell about the draft legislation and the discussion draft of the H.R. 1599 and to discuss and answer questions about Vermont's experience in labeling foods produced with genetic engineering.

In my oral testimony, I want to highlight two main points as we begin. The first is the role of states within our democracy and the importance of the state and the Federal Government in sharing responsibility for protecting consumers.

What is most troubling about the proposed legislation, both the draft in front of you and the discussion draft, is that it would cut short and prematurely end state efforts to label foods before Vermont's law even takes effect. It also offers no substantive replacement for the regulations Vermont has in place.

Vermont does not oppose all of the Federal regulation in this area, nor even all elements of the bill. What is important to Vermonters is the ability to have accurate factual information in front of them in order to make informed decisions about their food purchasers.

And this is a historical design of our democracy. States, in the famous words of Justice Brandeis, have long been the laboratory of democracy, experimenting with social and economic policy in manners that allow them to test how policy works and determine the best course. And there is a robust history of states leading the way towards ultimate Federal regulation.

Two simple examples that come to mind, the first is fair credit reporting. Vermont and other states were among the first to require credit reporting to consumers. And as we all know, Congress ultimately moved forward with that, making it national law.

Another example that was referenced by Mr. Blasgen is menu labeling—I believe it was Rick—menu labeling, which New York began requiring the labeling of certain nutrition facts at chain restaurants. Vermont and other states followed suit, and recently the FDA has implemented the same informational labeling requirement nationwide.

Vermont's Act 120 is no different than that. It is the state taking a lead role in requiring a factual disclosure, a simple, four-word factual disclosure on the back of the package, stating nearly, produced with genetic engineering. It is not a warning. It is a notification. And it is a notification that is there to provide consumers with accurate information so, as the Vermont legislature found, they can make intelligent choices about their consumption.

And that is the second point I want to talk about. Trusting people to make their own decisions is a fundamental American principle. And what Act 120 does is trust consumers to make their own decisions. It trusts consumers to be intelligent and make intelligent choices.

There was tremendously strong demand in Vermont for this labeling bill. There is, in fact, strong demand across the country for such labeling. The legislature found that giving consumers this information enables them to make a choice similarly to calorie counts, to cartoon figures on the front of the package, to flavor. This is another piece of information that consumers want in order to make a decision about whether and how they will purchase their food.

And it is important that there is no state oversight of what information is disclosed. It is nearly the presence of materials that have been produced with genetic engineering. This is not the state determining what is right for consumers to know. This is the state simply providing information for consumers to make decisions on.

Lastly, I want to briefly touch upon the fact that Vermont's law also has flexibility in it. It doesn't mandate exactly where the disclosure has to be placed. It doesn't mandate the size of the font. It provides a floor for where the font is and where the disclosure should go, and that kind of flexibility, I think, is important as manufacturers and retailers begin to comply with Vermont's law.

So I want to thank the committee and Chairman Pitts and also Representative Pallone for inviting me here today, and I am happy to answer questions.

[The prepared statement of Mr. Daloz follows:]

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**Testimony of Vermont Assistant Attorney General Todd Daloz
Before the United States House of Representatives
Committee on Energy and Commerce
Subcommittee on Health
June 18, 2015**

Summary

Chairman Pitts, Ranking Member Green, and members of the Subcommittee, thank you for the opportunity to testify today. As you are no doubt aware, the State of Vermont has been deeply involved in the labeling of food produced with genetic engineering, passing a law requiring the labeling of such products a little over a year ago. Vermont's Attorney General, Bill Sorrell, is tasked with enforcing this law and has adopted the regulations that will implement the labeling requirement. I am here today to testify on behalf of Attorney General Sorrell about your draft legislation ("Discussion Draft") and to discuss Vermont's experience with labeling food produced with genetic engineering.

One of the primary roles of states in our federal system is to act, to paraphrase Justice Brandeis, as laboratories of democracy to develop "novel social and economic experiments without risk to the rest of the country."¹ That is what Vermont has done in requiring the labeling of food produced with genetic engineering. Our primary concern with the draft legislation

¹ *New State Ice Co. v. Liebmann*, 285 U.S. 262, 311 (1932) (Brandeis, J., dissenting).

before you today is that it would prematurely end all state efforts to require labeling – before Vermont’s labeling law even takes effect – without offering a substantive federal requirement in its place. We urge the Committee not to support a bill that preempts all state labeling requirements for genetically engineered foods. My testimony is summarized below:

- Federal preemption of state labeling laws is premature. The amendment to the Federal Food Drug and Cosmetic Act (21 U.S.C. 343-1(a)) proposed in section 103 and to the Agricultural Marketing Act (7 U.S.C. 1621 *et seq.*) proposed in section 203 of the Discussion Draft would prevent Vermonters – and citizens in other states that may pass a similar labeling law – from easily accessing factual information about their food by preempting such legislation in the fifty states. And it would do so without providing any meaningful substitute on the federal level.
- There is a robust history of state leadership and innovation on regulatory issues that has led directly to important national standards. From topics as diverse as child labor laws and credit reporting, states have been on the vanguard, developing and testing policies that, given time to mature, have ultimately been adopted on a national level.
- The Discussion Draft has a number of positive elements reflecting the important role the federal government has to play in the regulation of food labeling law. Developing an appropriate, recognized standard for labeling food as produced *without* genetic engineering, and a robust certification protocol, would be an important step.
- The heart of Vermont’s labeling law – Act 120 – is providing consumers with accurate factual information about their food at the point of purchase. The law was passed after significant legislative fact finding, taken over the course of two years.
- Vermonters, reflecting consumers across the United States, overwhelmingly support the factual disclosure that food has been produced using genetic engineering. As with other consumer protection measures, Vermont’s law responds to this wide-spread public support for factual labeling.
- In the face of a constitutional challenge from groups representing food manufacturers, the federal judiciary has upheld Vermont’s law through the first stages of litigation. A federal district judge recently denied the manufacturers’ groups’ request for a preliminary injunction and dismissed a number of their constitutional claims, including that the law was preempted by existing federal statutes. Importantly, the Court indicated that Vermont’s law would likely survive constitutional scrutiny under the First Amendment.

Vermont's Genetically Engineered Food Labeling Law

On May 8, 2014, after hearing testimony from more than one hundred individuals and reviewing literature on all sides of the issue over the course of two years, the Vermont Legislature enacted Act 120² to address concerns related to genetically engineered (“GE”) foods. Act 120 came about in response to tremendous constituent concern over the lack of available information about the use of GE foods in grocery products in the absence of a federal standard for such labeling, and in the face of a threatened – now actual – constitutional challenge. Put simply, this first-in-the-nation³ labeling law requires manufacturers and retailers to label GE foods offered for retail sale in Vermont.⁴

The Purpose of Act 120

At its core, Act 120 endeavors to provide consumers with accurate factual information on which they can base their purchasing decisions. In enacting this law, the Vermont Legislature expressly recognized a variety of principal reasons why consumers would want this information, and codified them at Vt. Stat. Ann. tit. 9, sec. 3041(1)-(4). As the Legislature found, consumers want to “make informed decisions regarding the potential health effects of the food they purchase and consume,” and, if they choose, to “avoid potential health risks of food produced from genetic engineering.”⁵

Likewise, the Legislature recognized that consumers wish to “[i]nform the[i]r purchasing decisions . . . [based on] concern[s] about the potential environmental effects of food from

² Vermont’s laws are referred to colloquially by act number (e.g. Act 250) based on the order of passage during a legislative biennium, rather than by a formal title (e.g. Statewide Land Use and Development Act).

³ Both Maine, Me. Rev. Stat. tit. 22, Ch. 565, sec. 2591-2596 (2013), and Connecticut, Conn. Pub. Act No. 13-183 (2013), have also passed similar labeling laws; however, these laws will not go into effect until certain external conditions are met.

⁴ It bears mention that the current Discussion Draft of H.R. 1599 would not appear to affect the “natural prohibition” portion of Act 120, Vt. Stat. Ann. tit. 9, sec. 3043(c). Accordingly, my testimony does not address this portion of Vermont’s law.

⁵ 9 V.S.A. sec. 3041(1).

genetic engineering.”⁶ The Legislature found that the use of GE crops contributes to genetic homogeneity, loss of biodiversity, and increased vulnerability of crops to pests, diseases, and variable climate conditions.⁷ It also found that pollen drift from GE crops threatens to contaminate organic crops and impairs the marketability of those crops.⁸ In addition, the Legislature found that GE crops can adversely affect native plants through the transfer of unnatural DNA, thereby displacing natural wildlife.⁹ The Legislature concluded that a labeling requirement will allow Vermonters who are concerned about the environmental impact of GE foods to adjust their purchasing decisions accordingly.¹⁰ Finally, the Legislature understood that consumers desire “data from which they may make informed decisions for religious reasons.”¹¹

In articulating these purposes, the Vermont Legislature relied on a wealth of testimony. Scientists, traditional and organic farmers, manufacturers, consumers, attorneys, regulators, and lobbyists alike provided hours of testimony on *both* sides of the issues: the benefits and risks of GE foods and whether consumers should (or should not) be informed whether a product was made with GE technology or derived from GE crops.¹²

⁶ *Id.* sec. 3041(2).

⁷ 2014 Vt. Acts & Resolves No. 120, sec. 1(4)(C).

⁸ *Id.* sec. 1(4)(D).

⁹ *Id.* sec. 1(4)(E).

¹⁰ Vt. Stat. Ann. tit. 9, sec. 3041(2).

¹¹ *Id.* sec. 3041(4).

¹² By way of example, in support of labeling the Legislature heard from Dave Rogers, Policy Advisory with Northeast Organic Farming Association, who spoke to the need for rigorous testing and the unintended consequences of GE technology, *see* Tr. of Hearings Before the S. Comm. on Agric. (Jan. 10, 2014); from Gary Hirshberg, Founder and former CEO of Stonyfield Farm, who highlighted recent studies showing harms associated with increased pesticide and herbicide use, and who explained that the national “Just Label It” campaign is not “anti-GE” but has “concerns about the absence of independent, longer term, third party safety and health testing,” *see* Tr. of Hearings Before the S. Comm. on Agric. (Jan. 15, 2014); and from Dr. Martin Donahue, of Oregon Physicians for Social Responsibility, who testified about increased pesticide use and associated health concerns, and who directed the Legislature to various sources for scientific studies, *see* Tr. of Hearings Before the S. Comm. on Agric. (Jan. 16, 2014). On the other side, for example, Robert Merker from the FDA testified that the FDA’s testing and regulatory procedures are sufficient to ensure the safety of GE foods, *see generally* Tr. of Hearings Before the H. Comm. on Agric. (Feb. 19, 2013); Val Giddings, Senior Fellow at the Information Technology and Innovation Foundation, testified that the current science and regulatory regime raise no safety concerns, *see* Tr. of Hearings Before the H. Comm. on Agric. (Feb. 15, 2013); and Karin Moore, Vice President and General Counsel, GMA, testified that the

Significantly, the Legislature also heard evidence showing consumer confusion about the prominence of GE foods, including two national surveys showing that Americans are generally unaware that many of the products sold in supermarkets today have been genetically engineered. See Allison Kopicki, *Strong Support for Labeling Modified Foods*, New York Times (July 27, 2013) (fewer than half those polled knew that many foods sold at supermarkets had been genetically engineered); Thomson Reuters, *National Survey of Healthcare Consumers: Genetically Engineered Food* (Oct. 2010) (only 69.2% knew that food available in stores had been genetically engineered, and only 51.3% of those earning less than \$25,000 per year had such knowledge). Motivated by the expressed need for this information, the Legislature developed the provisions of Act 120.

The Labeling Requirements of Act 120

The mechanics of Act 120 are relatively straight forward: manufacturers and retailers must label GE foods offered for retail sale in Vermont with the simple statement that the food is “Produced with Genetic Engineering.”¹³ As a general matter, packaged food produced entirely or in part from genetic engineering must be labeled on the package by manufacturers as “produced with genetic engineering.”¹⁴ In addition, such foods may be labeled as “partially produced with genetic engineering,” or “may be produced with genetic engineering.”¹⁵ In the case of unpackaged food, Act 120 requires retailers to post a “produced with genetic engineering” label on the retail store shelf or bin where the product is displayed for sale.¹⁶

FDA and other scientific bodies have found no difference in the safety of foods produced with GE technology, see Tr. of Hearings Before the H. Comm. on Judiciary (May 6, 2013).

¹³ Vt. Stat. Ann. tit. 9, sec. 3043.

¹⁴ *Id.* sec. 3043(b)(1), (3).

¹⁵ *Id.* sec. 3043(b)(3).

¹⁶ *Id.* sec. 3043(b)(2).

Act 120 exempts certain categories of food from its labeling requirements, including food “derived entirely from an animal which has not itself been produced with genetic engineering”; processing aids and enzymes produced with genetic engineering; alcoholic beverages; processed foods not packaged for retail and intended for immediate consumption; food served in restaurants; food containing only minimal amounts of GE material; and certain foods not “knowingly or intentionally” produced with genetic engineering.¹⁷

Importantly, Act 120 does not require manufacturers to identify which ingredients were genetically engineered.¹⁸ Nor does it prohibit manufacturers from including additional information or disclaimers on their packaging about the difference (or lack thereof) between GE crops and their traditional counterparts. In fact, in enacting the law, the Legislature saw fit to provide significant flexibility for the Vermont Attorney General to develop regulations implementing Act 120.¹⁹

Regulations Implementing Act 120

As provided in Act 120, the Vermont Attorney General formally adopted rules regulating the labeling of food produced with genetic engineering on April 17, 2015. *See* Vermont Consumer Protection Rule CP 121 (eff. July 1, 2016). The Rule, CP 121, further clarifies Act 120 by giving detailed definitions of key terms, specific requirements for the size and placement of the required disclosures, thorough descriptions of the various exemptions to the labeling requirements, and details on the enforcement of the law. In so doing, CP 121 draws on areas of existing federal and state law, including FDA and USDA regulations. At its heart, CP 121 ensures Vermont consumers have accurate information available to them at the point they decide

¹⁷ *Id.* sec. 3044 (listing exemptions).

¹⁸ *Id.* sec. 3043(d).

¹⁹ 2014 Vt. Acts & Resolves No. 120, sec. 3.

to purchase a food item, while at the same time providing industry some flexibility in complying with the labeling law.

Prior to adopting the Rule, the Attorney General's Office provided significant opportunities for input from the public, generally, and from industry groups, in particular. Beyond general outreach, our office specifically contacted industry groups, including the Grocery Manufacturers Association, the Snack Food Association, the Vermont Retail & Grocers Association, the Vermont Specialty Food Association, and various organizations representing regional grocery store chains and national commodity producers. Through an on-line questionnaire, submitted questions and comments, multiple face-to-face meetings, and a series of informal public conversations, we heard from numerous Vermonters and people from all across the country and around the world about the importance of this law. Out of this robust process of public input – including the formal notice and comment rulemaking procedures required under the Vermont Administrative Procedures Act, and further discussions with industry groups – CP 121 was formed.

The Rule focuses on the requirements and process of labeling in a framework that provides industry with flexibility in compliance. In detailing the placement and prominence of the “Produced with Genetic Engineering” disclosure on packaged, processed foods, CP 121 requires that the disclosure be “easily found by consumers when viewing the outside of the [food’s] package” and that the disclosure is “in any color that contrasts with the background of the package so as to be easily read by consumers.”²⁰ A manufacturer is “presumed to satisfy” the “easily found” requirement of the Rule if the disclosure is “located on the same panel as the Nutrition Facts Label or Ingredient List,” but a manufacturer is not required to place the

²⁰ 06-031 Vt. Code R. sec. CP 121.02(b)(iii).

disclosure in any given location.²¹ Likewise, a manufacturer meets the “easily read” requirement if the disclosure is either “in a font size no smaller than the size of the words “Serving Size” on the Nutrition Facts label” or is “in a font size no smaller than the Ingredient list . . . and printed in bold type-face.”²² So long as a consumer can easily find and read the disclosure, the purpose of Act 120 is met. These location and font-size standards give packaged, processed food manufacturers flexibility in providing the required disclosure in a manner that works with the constraints of their product’s packaging.

In a similar vein, CP 121 provides a variety of means for manufacturers to document that their products fall outside the scope of labeling under Act 120. Manufacturers can rely on the sworn statement of the person who sold them the product, certifying that the food “(1) was made or grown from food or seed that has not been knowingly or intentionally produced with genetic engineering and (2) has been segregated from and has not been knowingly or intentionally commingled with food or seed that may have been produced with genetic engineering.”²³ Alternatively, food certified as “organic” by an organization “accredited to make such certifications under the USDA National Organic Program” is also free of the labeling requirements.²⁴ Finally, the Attorney General is in the process of authorizing third-party organizations to verify that a manufacturer’s product has not been produced with genetic engineering. Each of these various avenues provide differing benefits for manufacturers interested in complying with Act 120.

Finally, CP 121 expressly permits, subject to other applicable legal requirements, manufacturers to include other disclosures about the GE contents of their product on the

²¹ *Id.*

²² *Id.*

²³ *Id.* sec. CP 121.03(b)(i).

²⁴ *Id.* sec. CP 121.03(f)(i).

product's label, enabling them to speak further on the subject of GE food, generally.²⁵ The Rule specifically allows manufacturers to state that "the United States Food and Drug Administration does not consider food produced with genetic engineering to be materially different from other foods."²⁶ There is nothing in the Rule, or Act 120, that limits the breadth and depth of these additional, optional disclosures, or their location and prominence on the product's package. Indeed, if a manufacturer so desired, it could dwarf Act 120's required disclosure with the manufacturer's views on the safety and importance of GE food to the national and global food system.

In sum, Act 120, together with CP 121, responds to a wide-spread constituent desire – held by a majority of Vermonters and other consumers around the country – for accurate factual information about the contents of food. But despite the broad demand for this purely factual disclosure, Act 120's labeling requirements were challenged almost immediately upon passage.

Overview of the Litigation Challenging Act 120

In June 2014, one month after Act 120 was enacted, a group of industry associations representing food manufacturers filed suit challenging the Act on various constitutional grounds. After Vermont moved to dismiss the Complaint, the industry associations filed for a preliminary injunction to prevent the State from enforcing the law, claiming they were likely to win their constitutional challenge and would be irreparably harmed if the law were to take effect.

On April 27, 2015, the District Court issued its decision denying the group's preliminary injunction motion in its entirety, finding they were not likely to prevail on their claims or could not establish irreparable harm. The Court also dismissed a significant portion of the group's

²⁵ *Id.* sec. CP 121.02(c)(ii).

²⁶ *Id.*

Complaint, disallowing claims that Act 120 is preempted by federal law and violates the Commerce Clause of the United States Constitution.²⁷

Significantly, as to the group's First Amendment claims, the Court sided with Vermont on several important questions. In particular, the Court rejected the group's argument that Act 120 must face strict scrutiny. Instead, the Court adopted the Attorney General's position that the lowest level of scrutiny applies to the disclosure law, whereby the State need only show that the GE label is reasonably related to the State's interests. The Court found that the "safety of food products, the protection of the environment, and the accommodation of religious beliefs and practices are all quintessential governmental interests," as is the "desire to promote informed consumer decision-making."²⁸

Further, the Court agreed that the disclosure requirement was not a warning label, but rather mandates the disclosure of purely factual and noncontroversial information, precisely as the Legislature intended. Thus, the Court indicated Act 120 would survive the "rational basis" test. Indeed, the Court initially sustained the fundamental "heart and soul" of Act 120 – the mandatory labeling of foods made with genetic engineering.²⁹

On May 6, 2015, the group of industry associations filed an appeal from the Court's denial of their preliminary injunction motion with the U.S. Court of Appeals for the Second Circuit.

²⁷ The Court held off on dismissing the group's preemption claim concerning the Federal Meat Inspection Act ("FMIA") and the Poultry Products Inspection Act ("PPIA") and Commerce Clause claim to the extent it challenged Act 120's application to signage and advertising outside of Vermont. However, CP 121 makes clear that the law reaches only advertising at or in retail premises for food offered for retail sale in Vermont and does not apply to foods subject to the FMIA and PPIA. Accordingly, these claims are effectively moot.

²⁸ *Grocery Mfrs. Ass'n v. Sorrell*, No. 5:14-cv-117, 2015 WL 1931142, at *37 (D. Vt. Apr. 27, 2015).

²⁹ The Court declined to dismiss the group's First Amendment and vagueness challenges to the law's "natural restriction," concluding, for the time being, that the group had sufficiently stated their claim.

Provisions of the Discussion Draft of H.R. 1599

The Discussion Draft presents a vision for the labeling of foods produced with GE that recognizes consumers' strong desire to have factual information about food available to them at the time of purchase; however, rather than ensuring the accuracy of this information – as other federal food labeling regulations do, and as Act 120 will do – the current draft fails to mandate the labeling of GE food, and immediately cuts short any state initiatives in labeling GE Food while presenting only a vague future regulatory structure in its place.

The Discussion Draft suggests an encouraging concept: increased FDA and USDA involvement in the review of GE foods. Indeed, the notion of federal labeling to inform consumers of the presence of GE materials in their food³⁰ is one the Vermont Attorney General strongly supports. That said, the Discussion Draft falls short in two particulars. First, any such labeling is discretionary, not mandatory, which fails to provide a reliable standard for consumers.³¹ Second, any elective labeling is permitted only when the Secretary of Health and Human Services determines that the GE variety of a food is “materially different” from its parent variety; and the definition provided for this operative term is overly strict³² and fails to recognize the information – apart from nutritional value or presence of allergens – that consumers desire when making a decision to purchase and consume food.

Most importantly, the Discussion Draft expressly preempts state labeling laws that require disclosure if a food was produced with GE.³³ If enacted as drafted, H.R. 1599 would have two central, and in my view, negative effects. The first would be to immediately – upon

³⁰ See Discussion Draft, at 3:13-15 (H.R. 1599, 114th Cong. sec. 101 (June 10, 2015))

³¹ *Id.*

³² *Id.* at 3:20-24, 4:1-7.

³³ See *id.* at 5:5-7 (H.R. 1599, sec. 103); *id.* at 21 (H.R. 1599, sec. 203).

enactment³⁴ – cancel existing legislation like Vermont’s Act 120. The second would be to provide only a incomplete federal structure for the labeling of GE foods, and one that lacks any meaningful statutory standards and places much, if not all, of the responsibility for creating the structure in the hands of a federal agency.

In principle, delegation to an agency is a logical and appropriate legislative tool – indeed, the Vermont Legislature delegated the crafting of Act 120’s regulations to the Attorney General. In the Discussion Draft, however, vital components to the National Standard for Labeling Genetically Engineered Food are absent (e.g. the identity or criteria for selecting “certifying agents,” which are central in the development of a Genetically Engineered Food Plan³⁵), making the proposal a bare skeleton. This lack of guidance, coupled with the immediate preemption of existing state and voluntary³⁶ labeling programs, highlight the central drawback of the proposed bill: rather than advancing a uniform national standard for mandatory GE food labeling, H.R. 1599 halts any efforts to label such foods and delays implementation of the proposed voluntary system until administrative regulations pass through the gauntlet of rulemaking. This would create a regulatory vacuum and would further delay consumers’ access to accurate information about the food they are consuming.

In effect, passage of H.R. 1599, as presented in the Discussion Draft, would impose preemption without concurrent federal action.

The Federalism Values in Consumer Protection

States and the federal government share responsibility for protecting consumers. As noted above, what is most troubling about this proposed legislation is that it would prematurely

³⁴ *Id.* at 21:3-4.

³⁵ *Id.* at 18:8-14 (H.R. 1599, sec. 201).

³⁶ Section 102 of H.R. 1599 (Discussion Draft, at 4:12-19), would have the effect of preventing even some private efforts to label foods as produced with or without genetic engineering by potentially rendering these efforts “misbranding” and thus unlawful until the required regulations are adopted.

end state efforts to require labeling – before Vermont’s law even takes effect – and offers no substantive federal requirement in its place. Vermont does not oppose all federal regulation in this area or even all concepts in this proposed law. The FDA and Department of Agriculture have primary responsibility for regulating food safety, and those agencies must take any steps necessary to protect our food supply. At some point, a federal labeling requirement might appropriately supersede state-imposed labels. But if the federal government is not ready to require national labeling for foods produced with genetic engineering, Congress should not rush in to ban state efforts to provide this information to their citizens. And Congress certainly should not do so before state measures have even become effective.

Cutting off state efforts in this area is contrary to established principles of federalism. Vermont’s labeling law is a direct response to strong public support in our state for mandatory labeling and consumers’ right to know. It is no surprise that a state would take the first step in this area. One of “the most valuable aspects of our federalism” is that “the 50 States serve as laboratories for the development of new social, economic, and political ideas.”³⁷ Historically, many important reforms began as state initiatives, including women’s right to vote, minimum-wage and child labor laws, and unemployment insurance.³⁸ By preempting state labeling laws before any label even appears on a package of food, this proposed bill would permanently disable the States’ ability to experiment and to provide useful lessons and models for national legislation.

State innovation continues to play an invaluable role in our federal system. State and local governments are more accessible and more responsive to new problems and concerns. We

³⁷ *FERC v. Mississippi*, 456 U.S. 742, 788 (1982) (O’Connor, J., dissenting).

³⁸ *Id.* at 788-89 (O’Connor, J., dissenting) (collecting supporting citations).

do not have to look back a hundred years to find examples of state initiatives that provide a model for later federal regulation:

- Vermont and other states pioneered consumer protections in credit reporting – a fact that is reflected in the Fair Credit Reporting Act’s provisions leaving untouched certain pre-existing state laws.³⁹
- Federal law will soon require disclosure of calorie and other nutritional information on chain-restaurant menus nationwide.⁴⁰ The effort to get this important information to consumers began in New York, which as the New York Times explained, “became a kind of natural experiment when it began requiring chain restaurants to post calorie counts on menus in 2006.”⁴¹ After a number of other states and cities adopted similar disclosure rules, the National Restaurant Association joined consumer groups in supporting a national rule.⁴²
- Another area in which federal regulation followed on successful state initiatives is transparency in the marketing of prescription drugs. The federal Physician Payment Sunshine Act,⁴³ and its implementing rules, create “a national program that promotes transparency by publishing data on the financial relationships between the health care industry (applicable manufacturers and group purchasing organizations, or GPOs) and

³⁹ 15 U.S.C.A. sec. 1681t; *see, e.g.*, Vt. Stat. Ann. tit. 9, sec. 2480e. In 1991, major credit reporting agencies mistakenly listed hundreds of Vermonters as tax “deadbeats,” harming their ability to obtain mortgages and other financing. The Vermont Legislature quickly responded by passing the Vermont Fair Credit Reporting Act. Vt. Stat. Ann. tit. 9, sec. 2480a et seq. The federal response took several more years. *See* Michael Epshteyn, Note, *The Fair and Accurate Credit Transactions Act of 2003: Will Preemption of State Credit Reporting Laws Harm Consumers?* 93 Geo. L.J. 1143, 1162-64 (2005).

⁴⁰ *See generally* Food Labeling: Nutrition Labeling of Standard Menu Items in Restaurants and Similar Retail Food Establishments, 79 Fed. Reg. 71156-01 (Dec. 1, 2014).

⁴¹ Sabrina Tavernise & Stephanie Stromnov, *F.D.A. to Require Calorie Count, Even for Popcorn at the Movies*, N.Y. Times, Nov. 24, 2014.

⁴² *Id.*

⁴³ 42 U.S.C.A. sec. 1320a-7h.

health care providers (physicians and teaching hospitals).”⁴⁴ Many states, including Vermont, Minnesota, and Massachusetts, led the way in requiring transparency and disclosure of payments to doctors by pharmaceutical companies.⁴⁵

What these examples convey is the value and importance of state legislation. In each case, individual states took the first crack at a serious problem, and in so doing, provided experiences that other states and eventually the federal government could learn from and build on. Sometimes federal legislation reaches farther, to deal more comprehensively with a problem. Sometimes a federal approach will be narrower, recognizing problems with earlier state approaches. Sometimes federal law preempts existing state laws, while in other areas federal law leaves room for complementary state regulation. Regardless, the pioneering state laws provided guideposts, models good and not-so-good, and useful information for voters and policymakers nationwide.

The proposed legislation on GE labeling would cut off this learning process before it even begins. No one benefits from such an approach, least of all the consumers who have pressed loudly and consistently for the right to know how their food is produced.

The Importance of Consumer Choice and Information

Vermonters overwhelmingly supported labeling of food produced with genetic engineering. A central purpose of Act 120 is to allow consumers to make “informed

⁴⁴ CMS, *Annual Report to Congress on the Open Payments Program for Fiscal Year 2014*, at 2, available at: <http://www.cms.gov/OpenPayments/Downloads/Open-Payments-April-2015-Report-to-Congress.pdf>.

⁴⁵ Vt. Stat. Ann. tit. 18, sec. 4631a, 4632; Minn. Stat. sec. 151.252; Mass. Gen. Laws Ann. ch. 111N; *see also* Cal. Health & Safety Code sec. 119400 – 119402; D.C. Code Ann. sec. 48-833.01 – 48-833.09; Maine Rev. Stat. Ann. tit. 22, sec. 2698-A; Minn. Stat. sec. 151.461, 151.47; Nev. Rev. Stat. sec. 639.570; Vt. Stat. Ann. tit. 22, sec. 4632; W. Va. Code sec. 5A-3C-13.

decisions.”⁴⁶ As the Vermont Legislature found, “[l]abeling gives consumers information they can use to make decisions about what products they would prefer to purchase.”⁴⁷

Vermonters are not alone in their interest in having accurate information about their food. A recent national poll found that fully 66% of Americans support mandatory labeling of foods produced with genetic engineering. Both Democrats and Republicans expressed this strong support for labeling GE foods.⁴⁸ One popular grocery chain has announced that it will require labeling of foods produced with genetic engineering by 2018.⁴⁹

Opponents of labeling have voiced no persuasive basis for keeping Americans in the dark on this important issue. Food manufacturers contend that foods produced with genetic engineering are safe and argue that GE technology benefits consumers and the environment.⁵⁰ Yet they adamantly oppose letting consumers have this information to make their own decisions in the grocery aisle and at the dinner table.⁵¹ As the U.S. Supreme Court has recognized, consumers have a “keen” “interest in the free flow of commercial information.”⁵² Labeling serves the interest of consumers and food manufacturers. It lets food manufacturers make their case for the benefits of GE technology directly to the American people. And it lets American consumers evaluate the evidence and make an *informed* choice.

Trusting people to make their own decisions is a fundamental American principle. Our current requirements for labeling food reflect and enforce this principle. A consumer can pick up

⁴⁶ 2014 Vt. Acts & Resolves No. 120, sec. 2 (adding Vt. Stat. Ann. tit. 9, sec. 3041).

⁴⁷ *Id.* sec. 1(5)(E).

⁴⁸ *Americans weigh in on GMO labeling in new poll*, Jan. 13, 2015, available at: <http://www.cbsnews.com/news/poll-most-americans-want-labels-on-genetically-modified-foods/>

⁴⁹ *Whole Foods Market commits to full GMO transparency*, available at: <http://media.wholefoodsmarket.com/news/whole-foods-market-commits-to-full-gmo-transparency>

⁵⁰ See, e.g., Monsanto, *Commonly Asked Questions about the Food Safety of GMOs*, available at: <http://www.monsanto.com/newsviews/pages/food-safety.aspx#q5>; Grocery Manufacturers' Association, *Get the Facts on GMOs*, available at: <http://factsaboutgmos.org/>

⁵¹ See *Grocery Mfrs. Ass'n v. Sorrell*, No. 5:14-cv-117, 2015 WL 1931142 (D. Vt. Apr. 27, 2015).

⁵² *Virginia State Bd. of Pharmacy v. Virginia Citizens Consumer Council, Inc.*, 425 U.S. 748, 763 (1976).

a can of soup, read the label, and find out the ingredients, the amount of sodium and added sugar, the number of calories, and the amount of protein, fat, and carbohydrates. Consumers can readily see whether shrimp were harvested in southeast Asia, grapes grown in South America, or cherries produced in the United States. Food labels provide information needed to avoid nuts or gluten, favor high protein content or stay away from high-fructose corn syrup. Armed with that information – and trusting it to be accurate – parents decide what fruits and vegetables to feed their kids and people with food sensitivities make the choices they consider best for their own health. And some people ignore all the labels and buy what they like to eat, whether it's candy bars or avocados.

A common complaint from those who oppose labeling is that a label is necessarily the equivalent of a warning and that consumers will assume that foods produced with genetic engineering are bad. In fact, the short disclosure required by Vermont law – “produced with genetic engineering” – is not a warning label, and the regulations do not require it to be presented as such. All that is required is a straightforward, accurate disclosure of factual information, similar to labels that say “product of United States” or “product of Mexico,” available to consumers at the point of purchase. Indeed, Congress has repeatedly directed that consumers be given information about the country of origin for meat, fish, and fresh produce.⁵³ In upholding country-of-origin labeling for meat, the D.C. Circuit Court of Appeals observed that “[s]upporting members of Congress identified the statute’s purpose as enabling customers to make informed choices based on characteristics of the products they wished to purchase.”⁵⁴

⁵³ Pub. L. 107-171, sec. 10816; Pub. L. 110-246, sec. 11002; 7 U.S.C.A. sec. 1638a (“a retailer of a covered commodity shall inform consumers, at the final point of sale of the covered commodity to consumers, of the country of origin of the covered commodity”).

⁵⁴ *American Meat Institute v. U.S. Dep’t of Agriculture*, 760 F.3d 18, 24 (D.C. Cir. 2014).

The proposed bill would deprive American consumers of information they want to have when deciding what foods to eat and how to spend their money. The bill would preempt state efforts, including Vermont's, to require that this basic information be included on package labeling – but not replace those state laws with any mandatory federal label. Insisting that this information be kept from consumers is profoundly disrespectful of the American consumer's right and ability to make intelligent, informed choices. The Supreme Court has long rejected arguments that presume consumers are incapable of making rational decisions. To the contrary, the Court has recognized that in our “free enterprise economy,” the public interest is best served when consumers' decisions are “intelligent and well informed.”⁵⁵

Conclusion

The federal government plays a vital role in regulating the labeling of food, and doubtless there is an important role for Congress to play in shaping the national standards for labeling food produced with genetic engineering. But H.R. 1599 does not fulfill that role. It contravenes our federal system by regulating Vermont's ability to enact legislation demanded by its citizens, thwarting the very type of experiment necessary for the development of solid public policy. By preempting Vermont's law and any similar measures that citizens in the other forty-nine states may desire, the proposed law ignores the intellect of American consumers to act upon accurate factual information presented to them.

⁵⁵ *Virginia State Bd. of Pharmacy v. Virginia Citizens Consumer Council, Inc.*, 425 U.S. 748, 765 (1976)

Mr. PITTS. Thank you.

Mr. Reifsteck, you are recognized for 5 minutes for your summary.

STATEMENT OF JOHN REIFSTECK

Mr. REIFSTECK. Thank you. Chairman Pitts, Ranking Member Green, and members of the subcommittee, thank you for holding today's hearing. I am John Reifsteck, a grain farmer from Campaign County, Illinois, and chairman of the board of GROWMARK, a regional agricultural cooperative base in Bloomington, Illinois. Our co-op is owned by local member cooperatives and provides input such as seed, fuel, plant nutrients, crop protection products, and grain marketing services.

I appreciate the opportunity to testify before you today on behalf of GROWMARK, the National Council of Farmer Cooperatives, and the Coalition for Safe and Affordable Food. I live in the farmhouse my grandfather built 101 years ago. The farm has sustained three generations of my family. My father and grandfather were good farmers, but the tools and the practices they used in our farm back then would not be good enough to meet the needs of our country and our world today. Instead, each generation of my family has used new technology to build on successes of the past.

Global Positioning System, automatic steering, and biotechnologies are examples of new tools available today that future generations will use to build a better agriculture tomorrow.

I know firsthand the value biotech crops provide for my operation. My farming experiences illustrate this. In the past, I have abandoned parts and fields that were riddled with insect damage or overcome by weeds. Harvesting those fields are not just an economic loss, but it presents a real risk of fiscal harm to my farm employees as did myself.

These are memories I won't forget. They represent past challenges that biotechnology has helped me overcome. I am very proud to say that GROWMARK has been a key part of the solution to these problems. Our affiliated companies and farmer owners have been directly involved with use of biotechnology crops for a number of years. GROWMARK was at the forefront of providing this technology to producers when it first introduced in the 1990s. I have successfully used biotech feeds in my farm since it became available. I believe the rapid adoption of these products reflects an understanding of their value and real-world benefits.

Farmers also realize that crops they grow today benefiting from biotechnology are just as safe and healthy as the crops grown by their parents and their grandparents. This is important to farmers and is providing our customers with safe quality products as our number-one priority.

Biotechnology provides substantial benefits to producers, to the environment, and to consumers. To reverse course now would wreak havoc amongst America's agricultural industry. Make no mistake, that is what a patchwork of biotech labeling laws would represent, an unworkable step backward. A growing concern among farmers and co-op managers is this patchwork would not stop at the State level, but perhaps could extend down to the individual cities, counties and even townships. Food and agricultural compa-

nies, including cooperatives like GROWMARK, would have no choice but to comply with hundreds, perhaps even thousands, of varying, if not directly conflicting, labeling laws. A near impossible task for us.

The Safe and Accurate Food Labeling Act introduced to this Congress by Representatives Mike Pompeo and G.K. Butterfield would ensure that the labeling of biotech ingredients of food products is based on consistent standards using sound science. It would allow those who wish to label their products as GMO free to do so by utilizing a verified process offered through the USDA, very similar to that of the Department's successful certified organic program.

I encourage members of this committee and Congress to support the Safe and Accurate Food Labeling Act. This bill would ensure the consumers are provided with accurate and consistent information about the food they purchase while preserving the choices available to grocery shoppers and to our Nation's farmers.

In conclusion, I strongly urge the subcommittee to support a voluntary, uniform, and national standard for labeling food products derived from biotech ingredients. The impact of not taking action would have a devastating effect on food and agricultural companies across the country, as well as farmers whose livelihoods depend on the freedom to conduct their business using the best methods available to them.

Thank you, again, for the opportunity to testify before this committee.

[The prepared statement of Mr. Reifsteck follows:]

Statement of John Reifsteck
Chairman of the Board and President
GROWMARK, Inc.

A National Framework for the Review and Labeling of Biotechnology in Food
Energy and Commerce Subcommittee on Health
U.S. House of Representatives

June 18, 2015

Chairman Pitts, Ranking Member Green, and members of the Subcommittee, thank you for holding today's hearing to discuss the impact biotechnology has on our nation's farms, food supply and economy. I am John Reifsteck, a grain farmer from Champaign County in central Illinois and Chairman of the Board and President of GROWMARK, Inc. I appreciate the opportunity to testify before you today on behalf of GROWMARK, the National Council of Farmer Cooperatives and the Coalition for Safe Affordable Food.

The GROWMARK System

GROWMARK is a regional agricultural cooperative based in Bloomington, Illinois. We provide agronomy, energy, facility planning, and logistics products and services, as well as grain marketing and risk management services in more than 40 states and Ontario, Canada.

GROWMARK owns the FS trademark, which is used by our affiliated members.

Among the many services provided to members, GROWMARK's Agronomy division offers all of the products and services an agricultural retailer needs to provide for farmer success including a comprehensive biotech seed line-up. GROWMARK's complete offering of plant food products, adjuvants, surfactants, and crop protection products ensure superior yields and acre for acre productivity.

The GROWMARK System provides services that span the supply chain from providing the ideal seed varieties for planting, caring for plants during the growing season, collecting and storing grain after harvest, to selling the product at the best market price and shipping it across North America.

We offer a variety of transportation options to ensure our clients can provide their customers with the right inputs at the right time. Each year our Logistics Division arranges nearly 150,000 truckloads of product and our Traffic Department coordinates more than 1 million tons of rail and barge shipments. To improve efficiency, we distribute products on regular routes from three primary warehouses -- Alpha and Nashville, Illinois and Kitchener, Ontario. Each facility is ISO 9001:2008 compliant, signifying quality control from receipt of the product to its final delivery.

GROWMARK is a full service agricultural cooperative focused on developing and delivering leading edge products, services, knowledge, and technology through high-level expertise and strategic assets.

Benefits of Biotechnology

Our affiliated companies and farmer-owners have been directly involved with the use and development of biotechnology crops for a number of years. GROWMARK was at the forefront of providing this technology to producers when it was first introduced in the 1990s. I have successfully used biotech seeds on my farm since they became available, and I believe the rapid adoption of these products reflects farmer satisfaction and understanding of the value they provide.

Testimony of John Reifsteck, GROWMARK, Inc.

Today I live in the farmhouse my grandfather built 101 years ago. The farm has sustained three generations of my family. My father and grandfather were good farmers, but the tools and practices they used on our farm would not be good enough to meet the needs of our country today. Instead, each generation of my family uses new technology to build on the successes of the past. GPS, automatic steering, and biotechnology are examples of new tools available today that future generations will use to build a better agriculture.

Biotechnology solves problems for farmers; they, and society in total, benefit from these solutions. For example, some traits protect against harmful insect pests and diseases thereby reducing the need for pesticides. Better control of weeds with biotech reduces the amount of tillage used in fields, and thus reduces erosion. Other traits can increase the nutritional value of the harvested crop such as pineapples with higher levels of lycopene, or they have the potential to eliminate life-threatening allergens such as those found in peanuts. GROWMARK supports the use of biotechnology in agriculture and the ongoing research and development of new seed traits. The development and adoption of biotech products makes possible the continued availability of safe food, feed, and fiber products to consumers in the U.S. and worldwide.

GROWMARK and other farmer cooperatives are built on the dedication and hard work of America's farmers and ranchers. Quite simply, their success is the key to the success of our co-op. That is why we support policies based on sound science that enable producers to explore new practices and technologies to improve their operations, and provide high-quality, safe products for consumers.

Testimony of John Reifsteck, GROWMARK, Inc.

Farmers also realize that the crops they grow today, benefiting from biotechnology, are just as safe and healthy as the crops grown by their parents and grandparents. This is important to us as providing our customers with safe, quality products is our number one priority.

I know firsthand the value of biotech crops and the measure of safety using them provides. In my lifetime of farming, I have had to abandon parts of fields riddled with insect damage. Harvesting fields damaged by insects or overcome by weeds are not just an economic loss, they present a real risk of physical harm to farmers and farm workers. Biotech products are extremely valuable to me, my fellow farmers, and the cooperatives we serve.

The Need for a National Framework

The benefits biotechnology provides to producers, to the environment, and to consumers are substantial. To reverse course now would wreak havoc among America's agriculture industry, adversely affecting many farmers and ranchers.

Yet that is exactly what a patchwork of biotech labeling laws at the state level would likely do. In short, such a hodgepodge of rules would be unworkable for farmers and their cooperatives. A growing concern among farmers and co-op managers is that this patchwork would not stop at the state-level but could extend down to individual cities, counties, and townships. Food and agriculture companies across the United States, including cooperatives like GROWMARK, would have no choice but to comply with hundreds, even thousands, of varying, if not directly conflicting, labeling laws. It would be nearly impossible to comply with every locality's labeling requirements.

Therefore, a uniform, national solution to the labeling of food products derived from ingredients using biotechnology is imperative for the survival of American farms. The implementation of this national solution is of utmost importance. Effectively mandating farming practices and narrowing the purchasing choices for customers should not be the role of government; rather, public policy should support efforts already underway in the marketplace and trust in the intelligence of consumers to make choices best suited to their preferences.

Trusting the regulatory systems already in place – which have determined products derived from biotechnology are safe to handle and consume – is essential as well. In the U.S., roughly 90 percent of all the corn, soybeans and cotton are grown using biotechnology. The acceptance of biotech crops would not have been possible without the existence of a risk-based regulatory process built on sound scientific principles. That process has been in place since the adoption of the Coordinated Framework for Regulation of Biotechnology by the United States was announced in 1986. Every biotechnology crop on the market today has successfully completed review under the Framework and has been found to be safe.

Agricultural biotechnology products in the U.S. are regulated by three agencies: the U.S. Department of Agriculture (USDA), the Environmental Protection Agency (EPA) and the Food and Drug Administration (FDA).

Under the authority of the Plant Protection Act implementing regulations, USDA's Animal and Plant Health Inspection Service (APHIS) is the agency that reviews all biotechnology crops

Testimony of John Reifsteck, GROWMARK, Inc.

before they can be field tested or commercialized. APHIS has overseen tens of thousands of field tests that have made it possible for over 70 biotechnology crops to reach the market through its deregulation process. In making deregulation decisions under the Plant Protection Act, APHIS has consistently relied upon its independent evaluation of the potential for new products that could pose a plant pest risk. Under its authority it considers factors that are relevant to a plant pest risk determination.

The EPA is responsible for ensuring that pest-resistant biotech varieties are safe to grow and consume. It regulates environmental exposure to these crops to ensure there are no adverse effects to the environment or any beneficial, non-targeted insects and other organism.

The FDA imposes on foods developed through biotechnology the same regulatory requirements used to safeguard all foods in the marketplace. The FDA has both pre-market and post-market authority to regulate the safety and labeling of all foods and animal feed. The FDA's evaluation of a biotechnology food focuses on its characteristics, not the method used to develop it.

On the production side, legislation mandating the labeling of food products with biotech ingredients would create a domino effect that would ripple throughout the supply chain from the consumer to the farm gate. The two ends of that chain, the farmer and the consumer, would likely end up bearing the brunt of the costs. Farmers would face significant compliance costs with little power to affect prices. Consumers would see increased grocery prices as companies in the middle of the supply chain pass through the costs of constructing multiple supply streams, acquiring separate warehouse space, creating new transportation routes, and designing an array

of new product labels to comply with the specific jurisdictional regulations required at the final destination. This is the top issue our farmers are most concerned about when thinking about the future sustainability of their operations.

The Future of American Agriculture

American agriculture has long been at the forefront in meeting the world's ever-expanding needs for food, feed, and fiber. The availability of corn, cotton, soybean, sugar beet, canola, alfalfa, and other crops enhanced through all types of science, including biotechnology will continue to assist the U.S. farmer in providing for the world's growing population. The development and adoption of these products, and the promise of new products, make possible the continued availability of abundant food, feed and fiber to consumers in the U.S. and worldwide. It is imperative that the U.S. agriculture industry continue to lead the way with innovation, product development and acceptance of biotechnology crops.

Stigmatizing biotechnology through mandatory labeling will jeopardize the future use of technology in agriculture. The continued use and development of biotechnology will be a key to meeting the greatest humanitarian challenge of the 21st Century.

Consumers should, and do, have choices in the marketplace. Some may want to pay a premium for food that is produced by certain methods, such as organic, or that does not contain certain ingredients, such as gluten. Others may prioritize affordability, convenience, or taste. Voluntary labeling will help to preserve all of these choices in the marketplace; mandatory labeling on the

other hand would ensure that some consumers, especially those least able to afford price increases at the grocery store, will face fewer options.

The *Safe and Accurate Food Labeling Act* introduced this Congress by Representatives Mike Pompeo and G. K. Butterfield, would ensure that labeling of biotech ingredients in food products is based on consistent standards using sound science. It would allow those who wish to label their products as GMO-free to do so by utilizing an accredited certification process offered through U.S. Department of Agriculture (USDA). This process would be similar to that of the Department's successful Certified Organic program. I encourage members of this committee and Congress to support H.R. 1599 as it would ensure that consumers are provided with accurate and consistent information about the food they purchase while preserving the choices available to grocery shoppers as well as our nation's farmers.

In conclusion, I strongly urge Congress to consider the consequences of not passing a uniform, national standard for labeling food products derived from biotech ingredients. The impact of not taking action would have a devastating effect on food and agriculture companies across the country as well as farmers whose livelihoods depend on the freedom to conduct their businesses using the best methods available to them.

Our members continue to support labeling decisions that are voluntary and are determined by the market, versus unnecessary, mandatory labeling requirements that would disrupt interstate commerce. Furthermore, we do not believe decisions involving the marketing of food products should be included in the science and safety reviews conducted by the government when the science and safety of the product is proven harmless.

Thank you again for the opportunity to testify before this committee. I look forward to working with each of you to find a national solution to labeling biotechnology while ensuring the continued availability of these tools to meet the demands of an expanding global population.

About the National Council of Farmer Cooperatives

Since 1929, NCFC has been the voice of America's farmer cooperatives. NCFC values farmer ownership and control in the production and distribution chain, the economic viability of farmers and the businesses they own, and vibrant rural communities. We have an extremely diverse membership, which we view as one of our sources of strength—our members span the country, supply nearly every agricultural input imaginable, provide credit and related financial services (including export financing), and market a wide range of commodities and value-added products.

American agriculture is a modern-day success story. America's farmers produce the world's safest, most abundant food supply for consumers at prices far lower than the world average. Farmer cooperatives are an important part of the success of American agriculture. Cooperatives differ from other businesses because they are member-owned and are operated for the shared benefit of their members.

Farmer cooperatives enhance competition in the agricultural marketplace by acting as bargaining agents for their members' products, providing market intelligence and pricing information, providing competitively priced farming supplies, and vertically integrating their members' production and processing. There are over 3,000 farmer cooperatives across the U.S., and earnings from their activities (known as patronage) are returned to their farmer members, helping improve their members' income from the marketplace.

About the Coalition for Safe Affordable Food

The Coalition for Safe Affordable Food is dedicated to providing policy makers, media, consumers and all stakeholders with the facts about ingredients grown through GM technology.

We are also an advocate for common sense policy solutions that will only further enhance the safety of the GM crops and protect the vital role they play in today's modern global food supply chain. The coalition is comprised of American farmers and representatives from a diverse group of industry and non-governmental organizations.

Summary of Points

- The GROWMARK System provides services that span the supply chain from providing the ideal seed varieties for planting, caring for plants during the growing season, collecting and storing grain after harvest, to selling the product at the best market price and shipping it across North America.
- Biotechnology solves problems for farmers; they, and society in total, benefit from these solutions. The development and adoption of biotech products makes possible the continued availability of safe food, feed, and fiber products to consumers in the U.S. and worldwide.
- The benefits biotechnology provides to producers, to the environment, and to consumers are substantial. To reverse course now would wreak havoc among America's agriculture industry, adversely affecting many farmers and ranchers.
- A uniform, national solution to the labeling of food products derived from ingredients using biotechnology is imperative for the survival of American farms. The implementation of this national solution is of utmost importance.
- Stigmatizing biotechnology through mandatory labeling will jeopardize the future use of technology in agriculture. The continued use and development of biotechnology will be a key to meeting the greatest humanitarian challenge of the 21st Century.
- I encourage members of this committee and Congress to support H.R. 1599 as it would ensure that consumers are provided with accurate and consistent information about the food they purchase while preserving the choices available to grocery shoppers as well as our nation's farmers.

Mr. PITTS. The chair thanks the gentleman.
Now I recognize Mr. Jaffe, 5 minutes for your summary.

STATEMENT OF GREGORY JAFFE

Mr. JAFFE. Chairman Pitts, Ranking Member Green, I want to thank the House Committee on Energy and Commerce and the Subcommittee on Health for having today's hearing and inviting me as a witness on behalf of the Center for Science in the Public Interest.

The issues surrounding the proper role of the Federal Government in the oversight of genetically engineered crops and the labeling of foods made with or without ingredients from those crops are issues of obvious public concern that Congress needs to address. It is critical that the Federal Government ensures that all GE crops are safe and that whatever information is provided to consumers about foods and ingredients made from those crops be truthful, neutral, and nonmisleading. I am here today as the director of CSPI's biotechnology project. CSPI is a nonprofit consumer organization established 44 years ago. CSPI works primarily on food safety and nutrition and publishes our nutrition action newsletter to educate consumers on issues surrounding diet and health. CSPI receives no funding from industry or the Federal Government.

CSPI has long advised consumers, journalists, and policymakers that foods and ingredients from currently grown GE crops are safe to eat. The current crops have also provided tremendous benefits to farmers and the environment in both the United States and around the world. CSPI has advocated for improvements in current Federal oversight to ensure safety to humans, animals, the environment, and agriculture.

I will limit my testimony today to the Federal Government's oversight of food and feed safety issues, which are the primary responsibility of the FDA and directly related to this hearing. FDA ensures the safety of food under the Food, Drug, and Cosmetic Act. Under that law, FDA has established a voluntary consultation process whereby developers of GE seeds can provide FDA with safety data and their analysis of those data to show FDA that the crop is substantially equivalent to its conventional counterpart.

When FDA consultation is completed, FDA responds that the seed developer by stating in a letter that FDA has "No further questions about the developer's determination that the GE crop is substantially equivalent to its conventional counterpart."

CSPI believes that FDA should determine the safety of all GE food crops before foods from those crops enter our food supply. FDA should review the safety data submitted by the developer, conduct its own analysis of that data, and provide the developer and the public with its opinion on whether foods from GE crops are safe to eat by humans and animals. That would be consistent with how most other countries ensure the safety of GE crops.

H.R. 1599 goes only a small step towards what we believe is the proper role of FDA to ensure the safety of GE crops and the foods made from them. H.R. 1599 would codify the current FDA voluntary consultation process. It does not require, however, FDA to provide its opinion on each particular GE crop safety. In addition, it does not put the burden of proof on the notifier to satisfy FDA

that the GE food crops or foods and ingredients made from the crops are safe before marketing the GE crop.

The recently announced amendments to H.R. 1599 does not correct those major deficiencies and does not grant FDA any new legal authority to ensure that GE food crops are safe. Instead, it amends the Plant Protection Act to state that a GE crop that has been granted nonregulated status under USDA regulations cannot be marketed in interstate commerce until the USDA has received from the developer the “no further questions” letter it receives from FDA. FDA would still not need to make its own independent determination that the GE food crops meet the safety standard, and the amendment does not provide FDA with the needed authority to prevent foods or ingredients from GE crops from entering the food supply until the notifier satisfies FDA of their safety.

H.R. 1599 and the amendment provides USDA’s agricultural marketing service with unique legal authority to establish a certification and labeling system for food manufacturers who wish to label foods that either contain or do not contain ingredients from GE crops. CSPI supports the Federal Government’s oversight of GE and non-GE labels to ensure they are truthful, neutral, and non-misleading. There is no standard definition of what it means to be a non-GMO, no standard way to describe that claim in a neutral manner, and no way for the consumers to know if that claim is accurate.

While CSPI believes that there is no benefit to consumers from avoiding foods that contain ingredients from GE crops, CSPI understands that some consumers do want to buy such foods. The system that would be implemented at USDA if Congress passed H.R. 1599 would go a long way towards uniform labels with verifiable, non-misleading claims.

Therefore, CSPI endorses that portion of this legislation. I thank the committee for allowing me to testify, and I am happy to answer questions.

[The prepared statement of Mr. Jaffe follows:]

Testimony of Gregory Jaffe
Biotechnology Project Director
Center for Science in the Public Interest
House Committee on Energy and Commerce; Subcommittee on Health
“A National Framework for the Review and Labeling of Biotechnology in Food”
June 18, 2015

I want to thank the House Committee on Energy and Commerce and its Subcommittee on Health for having today's hearing and inviting me as a witness on behalf of the Center for Science in the Public Interest (CSPI). The issues surrounding the proper role of the Food and Drug Administration (FDA) and the United States Department of Agriculture (USDA) in the oversight of genetically engineered (GE) crops and the labeling of foods made with or without ingredients from those crops are issues of obvious public concern that Congress needs to address. It is critical that the federal government ensure that all GE crops are safe and that whatever information is provided to consumers about foods and ingredients made from those crops be truthful, neutral, and non-misleading.

I am here today as the director of CSPI's Biotechnology Project. CSPI is a non-profit consumer organization, which was established 44 years ago. CSPI works primarily on food safety and nutrition and publishes our Nutrition Action Healthletter to educate consumers on issues surrounding diet and health. CSPI also advocates on behalf of consumers at federal agencies, Congress, and international organizations. Our activities are based on the best available science, which informs the positions we take and the messages we promote. CSPI does not receive any funding from industry or the federal government. That policy is important because it eliminates any real or perceived conflicts of interest when we

advocate for new government policies or corporate practices. Our funding primarily comes from individuals who subscribe to our newsletter or make individual contributions. We also receive some funding from independent philanthropic foundations.

CSPI addresses scientific concerns, government policies, and corporate practices pertaining to GE plants and animals that are released into the environment or that end up in our foods. The Biotechnology Project's goals are to:

- Educate policymakers, media, interested stakeholders, and the public about the benefits and risks associated with GE crops and animals;
- Advocate for strong, but not stifling, federal regulation that ensures safety to humans and the environment; and
- Provide expertise to help developing countries establish their own biosafety regulations and make science-based decisions about adopting GE crops.

CSPI has long advised consumers, journalists, and policymakers that foods and ingredients made from currently grown GE crops are safe to eat. That conclusion is consistent with similar conclusions made by numerous international and scientific bodies, including the FDA, the National Academy of Sciences, the Food and Agriculture Organization, and others. The current GE crops also have provided tremendous benefits to farmers and the environment in both the United States and around the world. However, actions by developers selling GE seeds and by farmers growing GE crops have led to the highly troublesome development of insects and weeds that are resistant to pesticides used by many farmers. GE crops could be used sustainably but instead they have been overused and misused, leading to disruption of the environment and opposition by consumers.

CSPI has advocated for improvements in current federal oversight to ensure safety to humans, animals, the environment, and agriculture. The three federal agencies that regulate GE crops are FDA, USDA, and the Environmental Protection Agency (EPA). While CSPI has identified problems or inadequacies with how each agency oversees GE crops and ensures their safe use, I will limit my testimony today to the federal government's oversight of food and feed safety issues, which are the primary responsibility of FDA and directly related to this hearing.

By way of background, FDA ensures the safety of foods under the Federal Food, Drug and Cosmetic Act (FFDCA). Under that law, FDA has established a "voluntary consultation" process whereby developers of GE seeds can provide FDA with safety data and their analysis of those data to show FDA that the GE crop is "substantially equivalent" to the conventional traditionally-bred counterparts. FDA set up that consultation process because it has held that GE crops are not "food additives," which undergo pre-market approval, but instead fall within the FFDCA's category of foods that are "generally recognized as safe." Neither FDA nor CSPI is aware of any commercially grown GE food crop that has not completed FDA's voluntary consultation process. When the FDA consultation process is completed for a particular GE crop, FDA responds to the seed developer by stating in a letter that FDA has "no further questions" about the developer's determination that the GE crop is substantially equivalent to its conventional counterpart. FDA never provides its own opinion or conclusion about the safety of that GE crop.

CSPI believes that FDA *should* determine the safety of all GE food crops before foods from those crops enter our food supply. FDA should review the safety data submitted by

the developer, conduct its own analysis of those data, and provide the developer and the public with its opinion of whether foods from that GE crop are safe to eat by humans and animals. That new regulatory process would further ensure safety of future crops and allay consumer concerns about biotechnology. It is also consistent with how most other countries ensure the food safety of GE crops. Therefore, CSPI has long advocated that Congress pass legislation that would require an FDA pre-market approval process for all GE food crops.

Congressman Pompeo's bill, H.R. 1599, only goes a small step toward what we believe should be the proper role for FDA to ensure the safety of GE crops and the foods made from them. Title I of H.R. 1599 would codify the current FDA voluntary consultation process and give FDA 180 days to respond with its "no further questions" letter to the seed developer or the marketer of foods made from a GE food crop. The standard that FDA would use to carry out the notification process is whether the GE crops is "as safe for humans and animals ... as comparable marketed food," which is meant to be identical to the current "substantially equivalence" standard. If FDA does not send the required letter in the proposed time frame, FDA is automatically deemed to have "no further questions" about the notifier's own safety determination.

CSPI cannot endorse H. 1599, because it does not establish a mandatory pre-market approval process at FDA. Most importantly, H.R. 1599 does not require FDA to determine if the GE food crop meets the safety standard and provide its opinion on each particular GE crops' safety. In addition, it does not put the burden of proof on the notifier to satisfy FDA that the GE food crop or foods and ingredients made from that crop are safe before

marketing the GE crop. There is no automatic violation of the FFDCA if the GE crop, and food or ingredients from those crops, enter the food supply without an FDA finding that the GE crop is safe. Instead, H.R. 1599 does not alter the current law, which places the burden on FDA to show that the GE crop and foods made from it might be “adulterated” to get those potentially unsafe foods taken off the market.

Additional changes to H.R. 1599 are needed to establish an FDA oversight process that both ensures safety and gives consumers confidence that FDA is protecting the food supply from any unsafe GE crops. H.R. 1599 exempts GE crops where the “modification could not otherwise be obtained using conventional breeding techniques.” That provision could be interpreted to exclude two GE crops that recently completed the FDA voluntary consultation process -- the GE non-browning apple and the GE non-browning and low acrylamide potato -- because they conceivably could have been developed with non-GE methods, such as breeding or chemical mutagenesis.

Also, H.R. 1599 only covers GE crops intended for a food use. It would not require notification about GE food crops that produce pharmaceutical or industrial compounds, such as Syngenta’s Enogen corn. That is a GE crop that has been engineered to produce an enzyme useful for corn ethanol production, but it could have serious quality impacts if mixed with corn used to produce certain food products.

Finally, H.R. 1599 does not establish a regulatory process that is transparent and participatory. FDA would not be required to provide the public with an opportunity to comment before it concludes its review. FDA would only need to make the notification public after the 180-day period has ended and it has issued a “no further questions” letter.

Therefore, H.R. 1599 does not establish the independent safety review that would give American consumers confidence that foods and ingredients from GE crops are safe to eat.

The recently announced “Amendment in the Nature of a Substitute to H.R. 1599” (Amendment), does not correct the major deficiencies identified above and does not grant FDA any new legal authority to ensure that GE food crops are safe. The Amendment no longer amends the FFDCA to make the current voluntary consultation process “mandatory.” Instead, it amends the Plant Protection Act to state that a GE crop that has been granted “nonregulated” status under USDA regulations found at 7 CFR Part 340 cannot be marketed in interstate commerce until USDA has received from the developer the “no further questions” letter it received from FDA. FDA still would not need to make its own independent determination that the GE food crop meets the safety standard, and the Amendment does not provide FDA with the needed authority to prevent foods or ingredients from a GE crop from entering the food supply until the notifier satisfies FDA of their safety. Instead, GE food crops and ingredients from the notifier could continue to enter the food supply without FDA assuring the public of their safety.

The Amendment does mandate that all GE food crops and foods made from them must complete the FDA “no further questions” consultation process. However, foods and ingredients that came from GE food crops grown *outside* the United States are not subject to 7 CFR Part 340 and would not be subject to FDA enforcement if they did not complete the notification process.

Finally, as the Amendment is written, it is unclear whether GE plants that don’t fall within USDA’s regulations under 7 CFR Part 340 would need to complete the FDA

notification process. USDA has recently stated on numerous occasions that its Part 340 regulations do not apply to all GE crops but only those with potential “plant pest” concerns. GE food crops produced with the gene gun instead of agrobacterium as the method of transformation might not fall within USDA’s oversight. Similarly, GE food crops that don’t involve any DNA from known plant pests are outside of USDA’s oversight.

H.R. 1599 and the Amendment provide USDA’s Agricultural Marketing Service with new legal authority to establish a certification and labeling system for food manufacturers who wish to label foods that either contain or do not contain ingredients from GE food crops. CSPI supports the federal government’s oversight of GE and non-GE labels to ensure they are truthful, neutral, and non-misleading. Today consumers confront numerous different label claims about foods that don’t have ingredients from GE crops. There is no standard definition of what it means to be “non-GMO,” no standard way to describe the claim in a neutral manner, and no way for the consumer to know if the claim is accurate (i.e., that they are actually buying a food whose ingredients did not come from a GE crop).

The proposed genetic engineering certification and labeling system proposed by H.R. 1599 and the Amendment would be a good step forward. It would require USDA to establish a non-GMO labeling system with uniform definitions and verified label claims. While CSPI believes there is no benefit to consumers from avoiding foods that contain ingredients from GE crops, CSPI understands that some consumers do want to buy such foods. The system that would be implemented at USDA if Congress passed H.R. 1559 would go a long way toward uniform labels with verifiable, non-misleading claims. Therefore, CSPI does endorse that portion of the legislation.

Mr. PITTS. The chair thanks the gentleman. Right on time.

The members are voting on the floor. We still have 12 minutes. So we are going to continue the witnesses' testimony and some questions before we recess to go to the floor to vote, and then we will come back.

Mr. Giddings, you are recognized 5 minutes for your opening statement.

STATEMENT OF L. VAL GIDDINGS

Mr. GIDDINGS. Thank you, Mr. Chairman, Mr. Green. I very much appreciate the invitation to testify before you this morning on behalf of the Information Technology & Innovation Foundation on the safety and appropriate labeling for crops and foods improved for biotechnology. ITIF is a nonpartisan research and educational think tank whose mission is to formulate and promote public policies to advance technological innovation and productivity. We focus on innovation issues. We have long been involved in the conversations about agricultural biotechnology and how best to ensure its widely shared benefits to humans and the environment are not burdened by ill-considered policies, especially those based on fear and misunderstanding.

I very much appreciate the opportunity to comment on these issues here today and thank, in particular, Mr. Pompeo for proposing this legislation, which I think is approaching perfection as a solution to some of the problems we face in this area on public policy.

The introduction of crops improved through biotechnology, often called GMOs, has been one of the greatest booms to humanity in the last 10,000 years of our history. No other innovation in agriculture has been taken up more widely or more quickly, and none other has delivered greater benefits to humans, our livestock, and companion animals and the environment. These crops have been grown over the two decades on over 4 billion acres worldwide. Last year alone, they were grown on 448 million acres by 18 million farmers in 28 countries legally, including a lot more where they were grown by farmers without government sanction where the farmers could get access to the seeds.

The farm gate value added has totaled more than \$120 billion. And the environmental impacts of agriculture have been reduced, on average, by 18 percent. This has entailed a 37 percent reduction in the use of pesticides, a 22 percent increase in yields, and a 68 percent increase in farmer income.

The single most important element in the equation of credit for this avalanche of global benefits is the science-based regulatory process adopted by the United States in 1986 for which you and your colleagues and your predecessors bear an enormous amount of credit.

The bipartisan endorsement supporting the science-based approach to regulation that has been in place in the United States for the past four decades has been absolutely essential and made it possible for this technology to be developed, adapted, and disseminated. The intention of H.R. 1599 to extend this legacy of bipartisan support for science-based regulation is important as special interests seek to undermined its credibility and authority with

false claims and ill-considered policy proposals at every level, particularly at the State level. Congress clearly has authority to address these issues and should formally preempt state level actions as the Constitution directs in Article 1, Section 8, Clause 3, the interstate commerce clause.

I am less enthusiastic and, indeed, would advise against one provision before you in this legislation, which would change the nature of the FDA safety review process for bioengineered foods by making it mandatory. It widely acknowledged that the biotech-derived foods on the market today are safe, that they have all gone through this review process, the review process has worked and is working well, does not need any fixing; there are no safety issues outstanding, which it fails to address.

I know that there are those who favor making this process mandatory, but if Congress were to take that step, it would, for the first time, step away from the science-based regulation that has served us so well for decades. I say this because the term "GMO" is an artificial construct, and it does not represent a meaningful class of items deserving of special, much less discriminatory, regulatory status or scrutiny. That category further bears no meaningful relation to hazard or risk. GM is a process. It is not a product. Provisions with FDA regulations on labeling already in place mandate consumer information about the contents of the foods that they buy and consume.

So I would enter a plea that as you consider these issues, please think carefully about what will help accomplish your objectives and what will not. Making it clear to the States that labeling is a Federal responsibility, that is something that would be helpful. Actions that some will construe and represent to be an acknowledgement that there are safety issues or concerns where, in fact, there are none, would not be helpful. Thank you for the opportunity to speak to you this morning, and I am happy to answer any questions.

[The prepared statement of Mr. Giddings follows:]

Testimony of

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On

“A National Framework for the Review and Labeling of Biotechnology in Food”

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Introduction & Summary

Chairman Pitts, Ranking Member Green, and members of the Subcommittee, thank you for inviting me to share the views of the Information Technology and Innovation Foundation (ITIF) on the safety of and appropriate labeling for crops and foods improved through biotechnology.

The Information Technology and Innovation Foundation (ITIF) is a non-partisan research and educational institute—a think tank—whose mission is to formulate and promote public policies to advance technological innovation and productivity internationally, in Washington, and in the states. Recognizing the vital role of technology in ensuring prosperity, ITIF focuses on innovation issues. Because of its importance in enabling agricultural innovation, we have long been involved in the conversations about agricultural biotechnology and how best to ensure its widely shared benefits to humans and the environment are not unduly burdened by ill-considered policies, especially those based on fear and misunderstanding. I very much appreciate the opportunity to comment on these issues here today.

My comments come in the context of HR 1599. While I agree strongly with the obvious and logical importance of pre-empting State level efforts to require labels for food containing “GMOs,” I concur with former FDA Commissioner Dr. Margaret Hamburg, who stated last summer that FDA already has clear and sufficient authority over food labels, and that FDA’s authority pre-empts State level action.¹ As you have heard from other witnesses, the costs and negative impacts of a fifty state patchwork of inconsistent and incoherent standards would be significant. In view of the scientific consensus on, and unblemished safety record of bioengineered foods, together with clear Congressional supremacy, there is no conceivable justification for a state by state approach, much less for any mandatory labeling initiatives other than those that have already been in place at the federal level for decades.

It is worthwhile to focus on the reason for HR 1599. It has been put forward as a means of addressing campaigns to create exactly the sort of 50 state patchworks for which there is simply no justification. Legal mandates already require that consumers have all information relevant to health, safety, and nutrition, on federally approved labels. Numerous measures now in place (some already for years) provide consumers with abundant opportunities to choose to avoid foods derived from crops improved through biotechnology, should they wish to do so despite the abundant data and experience confirming their safety and environmental benefits. Yet a small group of professional campaigners has spent no small amount of money and effort to create the illusion of a demand for federal action that was, in fact, taken more than two decades ago. This entire issue, then, is merely a subterfuge through which ideologically-based anti-technology special interests are seeking to roll back and ultimately completely remove from the market GMO-based products.

On the issue of safety, though some will claim otherwise, the fact is that hundreds of billions of meals have been eaten by more than a hundred billion livestock animals, and billions of humans, in the two decades these foods have been on the market. There has been not a single solitary case of a negative health consequence as a result. It is a record of which the organic industry, for one, should be envious. The global scientific consensus on the safety of these foods and crops is remarkable in its breadth and depth.

The wisdom of FDA’s 1992 policy statement is therefore clear. Just as scientific and professional bodies around the world have done, the FDA found that there is nothing about the processes of

bioengineering that necessarily changes the resulting foods in any way related to health, safety or nutrition. If such a change were to result, as in the case of cooking oils modified to be more heart healthy, or soybeans with improved nutrition thanks to the addition of a gene encoding protein from a tree nut, the resulting foods would already be required, under existing FDA policy, to carry a label that would inform consumers of such changes.

Some have claimed that consumers have a “right to know” if their food has been “genetically modified.” Those making such claims overlook the fact that “genetic modification” is a process, not a thing. And as a geneticist, I can state categorically that every food any human has ever eaten has been “genetically modified” in the literal meaning of the term. Proponents of mandatory labels so misunderstand the facts as we find them in nature that they define “GM” as a process resulting in genetic changes in a manner not found in nature. This ignores that the processes used by genetic engineers are ones we learned about by finding them operating everywhere in nature. In fact, no process is more natural than genetic modification, and the scientists who use it to improve seeds do so using systems they bring from nature into the lab for the purpose.

Current FDA policy requires that any food that has been changed, by any means, so that its composition is different in any way related to health, safety, or nutrition, must inform consumers of such changes on the label. Furthermore, this must be done in a manner that is safe, informative, and not misleading. In short, the things proponents of mandatory labels claim they want, they already have. But of course, proponents of mandatory labeling do not want labeling to inform consumers, they want labeling to scare consumers and force food companies into not buying food inputs with “GMO” ingredients.

Authority to Set Labeling Standards – Congress or the States?

Article I, Section 8, Clause 3 of the Constitution, the “interstate commerce clause,” clearly locates the authority “to regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes” among the powers reserved to Congress. Congress in turn has delegated to FDA, through the Federal Food Drug & Cosmetic Act², authority over food labels. And FDA has laid out national policy in this regard in a 1992 Guidance Document.³ In publishing this guidance, FDA has followed the strong international consensus.

As mentioned above, existing FDA regulations already require that any novel ingredient that may affect the health, safety, or nutritional value of a food must be identified on the label. Existing federal law requires all food placed on the market to be safe, with criminal penalties for violators. Consumers have a right to labels that are accurate, informative, and not misleading.

Some claim that the processes used to produce bioengineered foods are fundamentally different from those used to develop other foods, and that insufficient studies have been done to allow us to be confident of their safety. Such allegations are false. Plant breeders and credible scientists around the world agree that the techniques used to produce transgenic plants, derived directly from natural phenomena, are but an extension of traditional plant breeding, and that the potential hazards are the same.⁴ The U.S. National Academy of Sciences explicitly rejected this claim in its very first publication in this area⁵ and has upheld this view in every subsequent study. The Government of Canada in its regulatory structure has specifically repudiated the assertion that plants improved

through recombinant techniques are necessarily and intrinsically different than those produced through conventional breeding⁶. The government of Australia has done likewise⁷ and the overwhelming majority of scientists around the world concur in this assessment.⁸

Indeed, the advent of modern genomics has shown us that genes are shared and transferred widely not only among different species, but between genera, families, and even phyla and kingdoms. Recent discoveries² have confirmed that gene exchange was the essential element in the survival of ferns when the explosive radiation of flowering plants radically changed their environment. This natural gene transfer is just like that used by modern genetic engineers to create plants improved through biotechnology. These natural processes of gene exchange are so widespread among plants, animals, and microbes on planet Earth that the single most common gene in humans is one that came from a virus¹⁰; as did half¹¹ of the other genes in our genomes; and humans share¹² 98% of our genes with chimpanzees, 92% with mice, 44% with fruit flies, 26% with yeast, and 18% with dandelions. Those who claim crops improved through biotechnology are “unnatural” could not be more profoundly refuted than by what we find throughout nature.

Global Consensus on the Safety of Foods Derived From Crops Improved Through Biotechnology

Some claim there are unresolved safety concerns about GIFS, and that they have been insufficiently studied. These claims are false, robustly contradicted by the scientific literature¹³, worldwide scientific opinion, and vast experience.¹⁴ Some have claimed that there is a dearth of independent research evaluating the safety of crops and foods produced through biotechnology, and that companies hide behind intellectual property claims to prevent such research from being done. These claims are false. The American Seed Trade Association has a policy¹⁵ in place to ensure research access to transgenic seeds, and Monsanto has made public a similar commitment.¹⁶ The academic scientists who made the 2009 complaint cited above, in fact, had the access they sought at the time they made the unfounded complaint.

In fact, there has been an abundance of independent research over the years,¹⁷ including a massive compilation underwritten by the EU involving more than 130 research projects, covering a period of more than 25 years, involving more than 500 independent research groups, concluding “that biotechnology, and in particular GMOs, are not per se more risky than e.g. conventional plant breeding technologies...”¹⁸

Some representative voices include the following:

“Indeed, the use of more precise technology and the greater regulatory scrutiny probably make them even safer than conventional plants and foods; and if there are unforeseen environmental effects - none have appeared as yet - these should be rapidly detected by our monitoring requirements. On the other hand, the benefits of these plants and products for human health and the environment become increasingly clear.”¹⁸

“...because the technique is so sophisticated, in many ways it is probably safer for you to eat GM products - plants that have been generated through GM - than normal plant foods, if you have any sort of reaction to food, because you can snip out the proteins that cause the negative reaction to certain parts of the population.”¹⁹

“In contrast to adverse health effects that have been associated with some traditional food production methods, similar serious health effects have not been identified as a result of genetic engineering techniques used in food production. This may be because developers of bioengineered organisms perform extensive compositional analyses to determine that each phenotype is desirable and to ensure that unintended changes have not occurred in key components of food.”²⁰

The Union of the German Academies of Science and Humanities found: “...in consuming food derived from GM plants approved in the EU and in the USA, the risk is in no way higher than in the consumption of food from conventionally grown plants. On the contrary, in some cases food from GM plants appears to be superior in respect to health.”²¹

The Chief Scientific Advisor to the European Union stated, “If we look at evidence from [more than] 15 years of growing and consuming GMO foods globally, then there is no substantiated case of any adverse impact on human health, animal health or environmental health, so that’s pretty robust evidence, and I would be confident in saying that there is no more risk in eating GMO food than eating conventionally farmed food.”²²

“GMO products have been tested to a particularly high extent and are subjected to rigid legislation control.”²³

“Food from GM Maize is more healthy than from conventionally grown maize... samples with the highest fumonisin concentrations are found in products labeled ‘organic.’”²⁴

“...The dangers of unintentional DNA mutation are much higher in the process of conventional plant breeding... than in the generation of GM plants. Furthermore, GM products are subject to rigid testing with livestock and rats before approval.”²⁵

“Whereas for conventional varieties there is no legal requirement for allergy tests of their products, for GMO products, very strict allergy tests are mandatory... for this reason, the risk of GM plants causing allergies can be regarded as substantially lower than that of products from conventional breeding.”²⁶

As for claims of “unexpected effects” – to date, there are none reported, and

“According to present scientific knowledge, it is most unlikely that the consumption of ...transgenic DNA from approved GMO food harbors any recognizable health risk.”²⁷

The most recent scientific publication²⁸ in this crowded catalogue examined the effects on livestock of eating feed derived through biotech improved crops over the course of 29 years through more

than a trillion meals. This unprecedented observational study not only failed to find any negative impacts, it found that over this period the average health of livestock animals improved.

Claims of the Anti-GMO Advocacy Groups

Despite the overwhelming consensus documented above, professional anti-technology campaigners claim that this consensus does not exist, and that its absence is demonstrated by “a petition signed by over three hundred scientists.” This false assertion presents no new arguments or data, and ignores the staggering mass of studies already cited demonstrating the safety of these foods, and their unblemished safety record. Instead, it recycles the usual stable of discredited claims such as those of Séralini et al.²⁹ It is worthwhile therefore to note that the group behind this press release is comprised of individuals with a long history of opposition to agricultural biotechnology that relies on ignoring or distorting reality. Indeed, the group is merely one element in a campaign that has propagated claims that the biology is unclear despite the fact that the science is far more settled on GM foods than it is on climate change. One observer³⁰ has dismissed them with these words:

“A group of [300] “scientists have signed a letter saying “GMO is bad...” They did so in response to a roundup of more than 2,000 actual studies, almost all done over the last decade, that have failed to produce any evidence that GMO is anything other than plain old food, and some of the safest food we consume.”

“Scientific consensus is not done by opinion poll, nor is it done by petition.... The scientific consensus is a consensus of data, born out by peer reviewed study and published work. Thus a meta-analysis of a topic is a perfect way of determining consensus. The consensus, by the way has stood for decades. GMO is not only as safe as any other food, it is provably so (most other food never having been tested) and in fact it is simply food, not magic.”

The Australian Agricultural Biotechnology Council reaffirmed this judgment, and further showed that European agriculturalists are keen to adopt the technology, and increasingly dissatisfied with the innovation stifling and scientifically indefensible European regulatory regime...

“The World Health Organization (WHO) has said that: ‘No effects on human health have been shown as a result of the consumption of such foods by the general population in the countries where they have been approved’.”

“The Agricultural Biotechnology Council (ABC) of Australia said the ENSSER’s statement “flies in the face of a consensus of an overwhelming majority of scientists.”

“Every legitimate scientific organization that has examined the evidence has arrived at the conclusion that GM crops and the foods they produce pose no risk to human health or the environment beyond those posed by their conventional counterparts,” added ABC Australia.

“Meanwhile, EU farming groups, including the NFU, NFU Cymru, NFU Scotland and the Ulster Farmers’ Union (UFU), have added their name to a different letter, which voices “deep concern” about the effects of GM policies and regulations in the EU.

“In an open letter sent to the European Commission on behalf of the French Association for Plant Biotechnology (AFBV)[and 13 other groups], they called for better for access to the best crops, including GM varieties, so that agriculture in Europe can be more sustainable and less reliant on imported products. The letter states that the lack of options for GM technology available to farmers in Europe can equate to significant loss of income and a missed opportunity.

Ignoring all this, professional anti-biotechnology campaigners persist in their claims that there are studies raising legitimate questions about the safety of GIFs. One frequently cited example is that of a long term feeding study in rats, conducted by a well-known organic advocate and biotech opponent from France, who dissembled about his financial conflicts of interest that lay behind his claims. Biotech opponents claim this study has been wrongly criticized, but the facts repudiate this claim. The alleged “attacks in the media” aimed at the Séralini “study” were the direct consequence of its remarkably poor design, execution, and analysis³¹ and the unprecedented media manipulations³² imposed on journalists prior to its release, in an attempt to compel favorable media coverage. The criticisms of the study and the way it was released were spontaneous and widespread among credible scientists³³ and journalists.³⁴ That is how peer review³⁵ works. The criticisms were, in fact, more severe than is commonly seen, but this was entirely due to the extraordinary shortcomings in design, execution, and interpretation of the experiment, and the unprecedented departure from the norms of publication designed to produce slanted media coverage.

One consistent opponent of agricultural biotechnology³⁶ has claimed that “*the French Food Safety Agency and the European Food Safety Authority have functionally agreed with Doctor Séralini.*” This claim is flatly contradicted by the historical record. Regulatory bodies in Europe and around the world uniformly rejected the study, and have made strongly critical statements.

The European Food Safety Authority: “EFSA is presently unable to regard the authors’ conclusions as scientifically sound.”³⁷ Six French National Academies of Science (Agriculture, Medicine, Pharmacology, Sciences, Technology, and Veterinary Medicine) condemned³⁸ the study, stating “Given the numerous gaps in methods and interpretation, the data presented in this article cannot challenge previous studies which have concluded that NK603 corn is harmless from the health point of view, as are, more generally, genetically modified plants that have been authorized for consumption by animals and humans.” They further dismissed the study as “a scientific non-event” that served only “to spread fear among the public that is not based on any firm conclusion.” These findings were echoed³⁹ by the French Higher Biotechnologies Council (HCB) and the National Agency for Food Safety (ANSES).

The German Federal Institute for Risk Assessment: (BfR): “The authors’ main statements are not sufficiently corroborated by experimental evidence, due to deficiencies in the study design and in the presentation and interpretation of the study results.”⁴⁰

The Australia New Zealand Food Safety Authority stated,⁴¹ “On the basis of the many scientific deficiencies identified in the study, FSANZ does not accept the conclusions made by the authors and has therefore found no justification to reconsider the safety of NK603 corn, originally approved in 2002.” Canada’s Health agency concluded, “The overwhelming body of scientific evidence continues to support the safety of NK603, genetically modified food and feed products in general, and glyphosate containing herbicides.”⁴²

Indeed, the condemnation of the Séralini study from the international scientific and regulatory community was so deep, broad, and spontaneous, that even Marion Nestle, NYU Professor of Nutrition and food safety advocate long known for her skepticism of agricultural biotechnology, agreed, “It’s a really bad study.”⁴³ One blogger distilled the consensus, and coined the “Séralini Rule”: “If you favorably cite the 2012 Séralini rats fed on Roundup ready maize study, you just lost the argument.”⁴⁴

In the end, the evidence of the study’s inadequacies was so overwhelming that the journal in which it was published retracted⁴⁵ it, providing this explanation⁴⁶ from the editor and eliciting⁴⁷ much commentary⁴⁸ in the blogosphere.⁴⁹ Séralini apologists have made numerous false and misleading claims about the retraction, but these have failed to persuade.⁵⁰

It must be noted that in citing the robustly discredited Séralini study opponents illustrate a pattern they have followed throughout their public representations. Repeatedly they cite one or another from a small handful of studies published by well-known campaigners against biotechnology. In so doing, they ignore the devastating criticisms they have received from the scientific community (peer review⁵¹) as well as the vast body of accepted scientific literature contradicting their unsustainable claims. This pattern of advocacy is deemed to be scientific misconduct under widely accepted standards.⁵²

Some have claimed that crops improved through biotechnology have resulted in an increase in the use of pesticides. This claim is, at least, mischievous, if not false, and depends on a number of intellectual gymnastics:

- It wrongly conflates “herbicides” with “pesticides” in a way that is flatly misleading. Pesticides are commonly understood to kill pests, usually insects. Herbicides are used to control weeds, which are certainly pestiferous, but agriculturalists use the different words for very good reasons;
- The argument is based on the misleading measurement “pounds on the ground” when that has long since been supplanted in the weed control literature by the “Environmental Impact Quotient” developed at Cornell University. The EIQ gives a vastly more accurate and useful way to evaluate comparative environmental impacts;

- The argument measures absolute application rates, instead of the far more logical rates per unit yield, which actually show a decline⁵³ in herbicide usage;
- Such claims ignore the devastating critiques that have been leveled specifically at his claims in at least 17 peer reviewed papers⁵⁴ in the literature and several accessible blogposts;⁵⁵
- Such claims are, in fact, directly contradicted by USDA's interpretations⁵⁶ of their own data.

In addition to these spurious claims that seem designed deliberately to mislead consumers about the environmental safety of foods derived from crops improved through biotechnology, we are routinely bombarded with a host of claims about alleged dangers to humans from their consumption. In an arena marked by the incredible, it is hard to find claims that are farther "out there," divorced from reality, than those that have been advanced by Dr. Stephanie Seneff, an engineering PhD who seems to have some difficulty identifying any evils that cannot be laid at the feet of glyphosate.

The facts tell quite a different story. One can hardly do better than to consult a summary of the data on the safety of glyphosate compiled by independent scientists at BioFortified last year,⁵⁷ with a useful primer also available.⁵⁸ Bottom line – glyphosate is less toxic than table salt, baking soda, chocolate, or caffeine. Yet some would have us believe it is responsible for nearly every ailment imaginable⁵⁹, and these claims find a ready echo chamber in a credulous and scientifically ill-trained press.⁶⁰

The claims made by Dr. Seneff are so outlandish they cannot be taken seriously. Let me draw your attention to a few relevant points. The paper in which the claims were made was published in an obscure, pay-for-play journal that is not even indexed in the standard catalogue of biomedical journals, PubMed⁶¹, and not devoted to the topic of the paper. Moreover, no credible mechanism is presented which could conceivably explain the wide range of disparate claims of harm nor is the argument based on any demonstration of causality, but on dubious inferences of correlation.

At the end of the day, it is important to remember that unlike conventional or organic foods, bioengineered foods are routinely screened in the United States and other industrial nations (per regulations rooted in the OECD guidelines) to ensure they have no toxins or known allergens. The emergence of previously unknown, novel allergens is so vanishingly rare as not to constitute even a remotely legitimate concern.⁶² No such hazards have ever been reported from bioengineered foods in the scientific literature, nor any credible hypothesis through which such hazards might possibly arise.

The claim, therefore, that labeling is needed to inform consumers of potential hazards is not only unfounded, but the opposite of the truth: the only safety differential ever reported between bioengineered and other foods shows the bioengineered foods to be safer.⁶³

Motivations of the Anti-GMO Advocacy Groups

If protecting human health or the environment is not the objective for these anti-technology opponents, what is? To be clear the real objective behind the campaign for legislation to mandate

“GMO” labels being advanced in a number of legislatures is to falsely stigmatize foods derived from crops improved through biotechnology as a means of driving them from the market. Proponents of mandatory labels have on occasion been honest in acknowledging these objectives as the following quotes show:⁶⁴

Andrew Kimbrell, Executive Director of the “Center for Food Safety, has stated “We are going to force them to label this food. If we have it labeled, then we can organize people not to buy it.”

Joseph Mercola, who makes a living selling unregulated, unlabeled supplements at mercola.com, has stated “Personally, I believe GM foods must be banned entirely, but labelling is the most efficient way to achieve this. Since 85% of the public will refuse to buy foods they know to be genetically modified, this will effectively eliminate them from the market just the way it was done in Europe.”

Jeffrey Smith, self-publisher of some of the most imaginative⁶⁵ anti-biotechnology claims, has said “By avoiding GMOs you contribute to the tipping point of consumer rejection, forcing them out of our food supply.”

Professional campaigner Vandana Shiva said “With labeling it (GMOs) will become 0%... for you the label issues is vital, if you get labeling then GMOs are dead end. “

And the Director of the Organic Consumers Association, Ronnie Cummins, said “The burning question for us all then becomes how -- and how quickly -- we can move healthy, organic products from a 4.2% market niche, to the dominant force in American food and farming? The first step is to change our labeling laws.”

And most recently “mandatory labeling and bans, or GMO-free zones, should be seen as complementary, rather than contradictory.”⁶⁶

It takes very little digging to uncover the motivations behind this organized push for mandatory labeling: it is a fear-based marketing campaign⁶⁷ motivated by an attempt to expand the market share for organic foods. And this is because these advocates simply distrust technological innovation *per se*, preferring Americans, and the rest of the world, to live in an idyllic, simpler world they believe is closer to a “nature” that meant life spans were half or less what they are today, child mortality at 80 percent or more, and malnutrition and starvation widespread. The reality is that if these neo-Luddites are able to impose their vision of a world on us – a world without GMOs – it will be a world with higher food prices. Perhaps labeling advocates can afford to pay higher prices for organic foods at upscale stores like Whole Foods – which is and should be their right – but using state legislatures to force all Americans down this path (e.g., to spend much more than necessary for safe and wholesome food) is elitist at its core.

Consumers have a right not only to not be deceived and misled. They also have a right not to be forced to pay more for food so they have more money for health care, education and other needs. Compulsory labeling of “GMOs” would deprive them of these rights.

Thank you again, Chairman Pitts, Ranking Member Green, and members of the Subcommittee for giving me the opportunity to appear before you today. I will be happy to answer any questions.

Endnotes

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Mr. PITTS. The chair thanks the gentleman. The chair advise the members, there is still 7 minutes left to vote, but some 382 members have not yet voted.

So I will begin questioning and recognize myself 5 minutes for that purpose.

My first question is for each of you. Today's hearing is not the first hearing this subcommittee has held on this topic. Previously, the FDA has stated that their current consultation process has provided appropriate oversight of new foods derived from genetically engineered plants. FDA testified before this subcommittee last December that the consultation process is working well and provides for rigorous food safety evaluation of such foods. I would like to ask each of our witnesses, do you agree with the agency's assessment? Yes or no?

Mr. Blasgen?

Mr. BLASGEN. Yes.

Mr. PITTS. Mr. Daloz?

Mr. DALOZ. I don't believe I have a basis for agreeing or disagreeing, but I trust the agency.

Mr. PITTS. Mr. Reifsteck?

Mr. REIFSTECK. Yes.

Mr. PITTS. Mr. Jaffe?

Mr. JAFFE. No.

Mr. PITTS. Mr. Giddings.

Mr. GIDDINGS. Absolutely yes.

Mr. PITTS. All right, thank you.

FDA also testified in December that there have not been any material differences identified between genetically engineered ingredients and those derived from traditionally-bred crops. Again, would each of you please answer, yes or no. Do you have any evidence to the contrary?

Mr. Blasgen?

Mr. BLASGEN. No.

Mr. PITTS. Mr. Daloz?

Mr. DALOZ. No.

Mr. PITTS. Mr. Reifsteck?

Mr. REIFSTECK. No.

Mr. PITTS. Mr. Jaffe?

Mr. JAFFE. No.

Mr. PITTS. Mr. Giddings.

Mr. GIDDINGS. There are some examples where there are material differences as with cooking oils that have been modified to be more heart healthy. But where those have occurred, they have still been reviewed by FDA; they have passed the safety reviews, and the differences are indicated on the labels.

Mr. PITTS. Thank you.

Finally, FDA testified that there is scientific consensus about the validity of the research and science behind the safety of foods derived from genetically engineered plant varieties. Do any of you disagree with that?

Do you disagree, Mr. Blasgen?

Mr. BLASGEN. No.

Mr. PITTS. Mr. Daloz?

Mr. DALOZ. No.

Mr. PITTS. I am sorry. I couldn't hear what you said.

Mr. DALOZ. No.

Mr. PITTS. Mr. Reifsteck?

Mr. REIFSTECK. No.

Mr. PITTS. Mr. Jaffe?

Mr. JAFFE. For the current crops that have been grown and are being grown, I would answer no. But for each future crop, we need to look at those on a case-by-case basis.

Mr. PITTS. Mr. Giddings?

Mr. GIDDINGS. I am not aware of any area in science where the consensus on safety is stronger than in this field.

Mr. PITTS. All right. Mr. Giddings, can you explain what additional testing the Department of Agriculture conducts on new plant varieties used in food before they are commercialized?

Mr. GIDDINGS. Well, the USDA does not necessarily do testing for food safety per se. That is the province of FDA. USDA does extensive analyses of a vast and broad amount of data relevant to safety and potential impacts for U.S. Agriculture and the environment. These are—the data that is submitted by applicants comes in response to their filling out APHIS' Form 2000, which lists a series of questions relevant to the safety of these crops on which the USDA wants data. The amounts of data provided are voluminous. They go far beyond, in fact, what regulators need to know to assess the safety of these crops. These crops have been examined in more depth, in more detail, in advance for safety than any others in human history, and their record of safety is unblemished.

Mr. PITTS. All right.

Mr. Giddings, or any of you, I have heard from a number of constituents who insist, despite this evidence to the contrary, that GMOs are dangerous to their health and are harming the environment. Why has this sentiment recently proliferated? Who would like to speak to that? Mr. Giddings?

Mr. GIDDINGS. Well, Mr. Chairman, there are very few issues in our lives to which we are more emotionally attached than food. And the idea of somebody messing around with our food supply is inherently one of concern. And folks who have issues with food, their concerns are heightened. And there is a very well-funded campaign of special interests who have adopted raising unwarranted fears in this way as their marketing tactic through which they seek to expand their market share. This campaign has been funded massively and executed across the United States and around the world for years, and they have succeeded dramatically in shaping the public view on these issues to create an appearance of safety issues where, in fact, they are absent.

Recent surveys have shown that the difference in opinion between the public and between the scientific community on these issues is wider than on any other major public policy issues before us today, and this is the result of an ongoing propaganda campaign designed to raise fears and mislead consumers, and this mandatory labeling push is an integral part to that.

Mr. PITTS. My time has expired.

We still have a minute and a half to vote. But 288 members haven't voted yet, so the chair recognizes Ranking Member Green for 5 minutes of questions.

Mr. GREEN. Thank you, Mr. Chairman.

I want to thank our witnesses testifying today on GMOs.

Dr. Giddings, one of my concerns, are you aware of any instance where a GMO crop caused an adverse impact on human or animal health? And, frankly, why don't we start with you and we can go down the list.

Mr. GIDDINGS. There are none, sir.

Mr. GREEN. Mr. Jaffe?

Mr. JAFFE. I am not aware of any, but when you genetically engineer a crop, what you are doing is adding some DNA that might produce a protein. And we do know that some proteins can be allergens to humans. So I do think we need to check those to make sure for example that does not occur for a new genetically engineered crop.

Mr. GREEN. Would the bill that we are discussing today correct that with the authority given?

Mr. JAFFE. So FDA looks at data from the companies on a voluntary basis concurrently, and H.R. 1599 would make that process mandatory. What I think is missing is FDA giving its opinion on the safety of that food.

Mr. GREEN. OK. Mr. Reifsteck?

Mr. REIFSTECK. In my farming operation, actually, GMOs have increased the safety of my farming operation, because they have allowed us to substitute GMO technology for other products that are more dangerous for me to use on my farm.

Mr. GREEN. Mr. Daloz, anything to offer from the Attorney General's Office?

Mr. DALOZ. I am unaware of any such studies.

Mr. GREEN. Mr. Blasgen?

Mr. BLASGEN. No.

Mr. GREEN. Mr. Giddings, are you aware of a situation where an unknown consumption of GMO in grain has caused adverse health reaction? Again, to all five of our witnesses.

Mr. GIDDINGS. There are none on the record. And on the issue of allergenicity, that is one of particular concern to me because my son has a life-threatening peanut allergy. And I can tell you, Congressman, that the only foods that are reviewed before they are introduced to the market for allergenicity, the only food so reviewed are biotech derived.

Mr. JAFFE. I am not aware of any harm.

Mr. BLASGEN. I am not aware of any.

Mr. DALOZ. I am not aware of any harms, but I am aware that consumers have deep concerns about that issue.

Mr. GREEN. And I know the concerns, and I think the legislation would probably would move it forward to help with some certainty including FDA oversight.

One of my other questions, Mr. Reifsteck, and can you explain how the state-by-state patchwork would affect farmers and co-ops, and also Mr. Blasgen, then I will start with Mr. Reifsteck first.

Mr. REIFSTECK. Well, certainly, having to fulfill all the requirements of every state is a difficult, time-consuming, and expensive proposition. As you think about how we grow crops in the United States, we grow corn; we grow soybeans. If we have to identify preserve those crops to make sure they fit into a marketplace, for ex-

ample, non-GMOs, that adds a tremendous amount of time and expense to the production of those crops because we have to shepherd those all the way from the seed to my farm, to the end user, and that will add cost and expense.

Mr. BLASGEN. I will add also manufacturers typically produce products for the Nation through a series of distribution networks. That product is shipped, then, into the retail network and then finally to the consumer shelf where its purchased. So the right to know, the choice is very important, that is why clear national standard is so critical to the manufacturing community.

Mr. GREEN. It would seem to be the same thing on the labeling, because I don't think we will ever have 50 different labeling requirements, but if two or three states do it, then, really that shows we need a national standard.

Mr. BLASGEN. Right. The level of complexity with that type of labeling would be an incalculable burden on manufacturing.

Mr. GREEN. OK. Mr. Chairman, I thank you. Appreciate it.

Mr. PITTS. The chair thanks the gentleman.

Time has expired on the floor vote, so we will come back as soon as we vote. There are two votes.

And the committee stands in recess for the floor vote.

[Recess.]

Mr. PITTS. The time of the recess having expired, we will continue with the questions.

And, at this point, the chair recognizes the gentleman from Kentucky, Mr. Whitfield, 5 minutes for questions.

Mr. WHITFIELD. Well, thank you, Mr. Chairman.

And I want to thank all of the witnesses for joining us today on this very important subject. As a matter of fact, I walked out of this hearing to go back to my office before I went to the floor for a vote, and there were a group of seven people in there who wanted to talk about this bill. So somebody is really organized today, Mr. Shimkus. But it is an important issue.

And, Mr. Jaffe, I would like to just ask for your comments. FDA has made it very clear that their current consultation process is rigorous, involves a number of experts well versed in these methods, and is entirely, to use their words, entirely sufficient for purposes of reviewing the safety of these products.

And so, if the FDA is perfectly comfortable in the process, feels that it adequately protects the public and food safety, why are you arguing for new legal authority that FDA does not believe it even needs?

Mr. JAFFE. So thank you very much for the question.

I agree with you that FDA is clearly the agency in the government with the expertise on food safety. And if there is any agency that should be deciding the safety of GM crops or anything that goes in our food supply, it should be the FDA, and I believe that they do have that expertise. So I agree with you that they have the expertise and they are using that in this consultation process.

But I think this consultation process works only because of the good nature of the companies that are coming forward with these genetically engineered seeds, with that data. They are not required by law to do that. And while there are lots of incentives for compa-

nies that are based in the United States to do that, that may not be the case for imported foods that come in from other countries.

So I can give you an example of China, which is now spending \$300 million a year doing research on genetically engineered crops. And so they may be soon growing a genetically engineered rice variety, and that rice variety may get turned into different food products that get imported into the United States. And those companies may not think of the voluntary process as mandatory. And FDA may not know about those because they weren't homegrown products that started with research trials in a company or at a university here in the United States. So USDA may not be aware of those.

And so FDA needs those tools to deal with those imports that come into this country. They need that authority to make sure that something is overseeing that those foods are safe.

Mr. WHITFIELD. So your primary concern is on imports?

Mr. JAFFE. That is one thing, and also on the exports. I do a lot of work in developing countries and around the world, and we do a lot of exports of our genetically engineered crops. And those countries can't look to the FDA decision. There is no opinion from FDA that these are safe.

And so those countries—many of our exporters from the U.S. would like to say to those countries, "Please defer to FDA here. They have shown that this is safe." And many countries in the world do that with lots of other foods or drugs that the U.S. does approve. But, in this case, because there is no approval, they can't do that, and so they have to have their own process.

So it hurts both our exports as well as our imports.

Mr. WHITFIELD. And, Mr. Giddings, I get the sense that you have an opinion about this, as well. So tell me what you think about it.

Mr. GIDDINGS. Mr. Whitfield, Mr. Jaffe and I have been friends for three decades, and it gives me a great deal of pain to have to disagree with him, but I think virtually everything he said here is mistaken.

There are a couple things that we need to remember. Number one is that FDA has absolute authority to require that all food placed on the market in the United States be safe. That is all the authority they need. It doesn't matter what process is used; if it is food on the market, FDA has the authority to ensure that it is safe.

The other thing to remember is that this category of GMOs or GM foods or whatever you want to call it is based upon a definition that is fundamentally at odds with the facts as we find them in the real world. This category is an artificial category. There is no meaningful basis to distinguish genetically modified organisms from others that are not, because everything on Earth is genetically modified.

There is no correlation between those products of the most modern plant-breeding technologies and any hazard or food safety risk. These things have an unblemished safety record. We know what causes safety problems in the consumption of food, and it is primarily the presence of pathogens. The only impact that biotech-derived foods are likely to have is to reduce the potential for pathogenic infestations.

So this whole idea that this is somehow a category that is meaningful in a sense that is relevant to risk assessment or safety is just contradicted by the facts, data, and vast experience.

So the FDA is correct; there are no data, there is no experience which suggests that they need additional authorities or that there is a problem here in need of fixing.

Mr. WHITFIELD. Mr. Reifsteck, do you have a comment you would like to make on this?

Mr. REIFSTECK. Well, I am obviously not qualified to talk about the regulatory process, but I will say that the American farmers do trust our regulatory process. They believe that these products are safe. And they do need a regulatory process that delivers products to farmers in a timely manner to deal with the issues we have to deal with in the future.

Mr. WHITFIELD. Yes.

To the attorney general of Vermont, I am certainly not an expert in food safety. I buy a lot of food, though. But anytime you go to a store and you see on a label "this contains such and such" or "this may contain such and such," it almost seems like it is a warning label.

And just, without giving a lot of thought to this—and that is why we enjoy these hearings—without giving a lot of thought to it, I mean, I think that is one of the primary concerns I would have about the Vermont law. It almost looks like it is a warning label. And I'm not aware of any scientific evidence that there is any safety issue involved, truthfully.

Would you want to make a comment on that?

Mr. DALOZ. Certainly, Congressman. And thank you for the question because I think it is an important distinction to make with regards to Act 120 and the disclosure that Vermont's law requires.

Fundamentally, the placement of that disclosure and the size and the font and things like that—in looking at the issue of how consumers are interested in this information and how they can best access the information, the attorney general's office intentionally chose to make the disclosure either—there are choices for industry. It can be the same size as the serving size disclosure on the nutrition facts panel on the back that the FDA already requires or the ingredients listing there, the goal being to say it has to be easily read and it has to be easily found. Those are the standards.

It is not a clear and conspicuous warning. It is a simple statement of fact on the back of the package, that if a consumer is interested in finding the information, they can look for it, they can read it, and they can make a choice accordingly.

Mr. WHITFIELD. Mr. Chairman, thank you.

Mr. PITTS. The chair thanks the gentleman and now recognizes the ranking member of the full committee, Mr. Pallone, 5 minutes for questions.

Mr. PALLONE. Thank you, Mr. Chairman.

As I said in my opening statement, I don't think genetically engineered foods pose special safety or environmental risks or are otherwise different from non-GEO foods. Therefore, it doesn't seem to make sense to require them to be labeled.

At the same time, unless there is some harm created by allowing Vermont to impose mandatory GE labeling, I don't think we in

Congress should be telling Vermonters what to do. And I am hoping the panelists can help me figure this out.

Let me ask a question. One issue I have heard is that requiring GE foods to have a special label would be inherently misleading because it would indicate that there was something different about those foods.

So let me ask Mr. Jaffe: I know CSPI is a staunch supporter of strong food labeling. What are CSPI's views on that question?

Mr. JAFFE. So, thank you for that question.

CSPI has been a strong proponent of labeling as something very informative to consumers and important, but that labeling has to be truthful, neutral, and nonmisleading. I think that is critical.

We have also been a strong believer that only the most important information should be mandated by the government. So if we are talking about safety information, whether something is an allergen, for example, would be something that, if people don't know about that, they could end up in the hospital about that; or nutritional information, how much salt or how much calories are in it, because that has a direct relationship to their diet.

As you said, genetically engineered foods are—the current ones that are on the crop are safe. And so there is no safety or nutritional reason to label those.

So, while we support the idea that there should be transparency and consumers who want to find that information about where their food comes from should be allowed to do that, I guess our view is that, in terms of when the government mandates labeling, those should be left for the most critical pieces of information. If we mandate everything on a label, the consumers don't know what is the most critical information.

So, for us, the things that are most critical are either safety information or nutritional information. This doesn't qualify there. So, while we think and we understand the consumers want information about this, we think that there should be ways to figure that out less than mandatory, government-imposed labels.

Mr. PALLONE. All right.

So let me ask Mr. Daloz why you don't think GE labeling is inherently misleading.

I think one of my colleagues on the Republican side said, you know, if you see the label, you are just going to say, well, obviously, this is different or maybe this is bad, even though it doesn't say that.

So why don't you think that the GE labeling is inherently misleading?

Mr. DALOZ. Thank you for the question, Congressman. There are two answers to that, and I will start with one that came along very recently.

It is important to remember that H.R. 5099 is not the only challenge that Act 120 faces. The Grocery Manufacturers Association and a number of other trade groups have of course sued the State of Vermont to enjoin the law from ever taking effect. And it is important for this body to remember that there is a bound on what Vermont can do in terms of misleading labels or anything like that—

Mr. PALLONE. I know that I am interrupting, because I want to ask another thing.

Mr. DALOZ. OK.

Mr. PALLONE. I just want to know why it is not misleading. You have to tell me that.

Mr. DALOZ. Well, I will say—

Mr. PALLONE. I haven't decided what to do here, OK?

Mr. DALOZ. To cut myself shorter, the Federal court just ruled that it wasn't misleading, that it was, in fact, a straightforward factual disclosure. "Ruled" is a strong word, but agreed with Vermont's position and indicated that that was how the court was looking at it.

And, again, that is the fundamental piece of Act 120, that is it is a factual disclosure about a process involved in making the product.

Mr. PALLONE. All right.

Let me see if I can get—I only have a minute. My other main question about the labeling is whether it imposes undue burdens on industry.

So, Mr. Blasgen or Mr. Reifsteck—we don't have much time—I understand that neither of you support mandatory labeling. However, why would putting a statement such as "produced with GE ingredients," just that, "produced with GE ingredients," on a label require a need to create new supply chain lines or new distribution lines?

What problems do you foresee with the inclusion of just a small statement like that that doesn't say it is good or bad or anything, just "produced with GE ingredients"?

Mr. BLASGEN. I think if it is—thanks for the question.

I think if it is a clear national standard, manufacturers can deal with it. If we had multiple States requiring different labeling requirements for all of these products, it would be an enormous burden on them to make sure that they got it right.

Manufacturers secure their supply chains. They are very concerned about securing the ingredients and their finished goods right up and to the point of consumption. In particular, this issue is that the manufacturers find themselves liable for product that is outside of their control. So that is one aspect of it.

But they are—

Mr. PALLONE. It sounds like you are saying you wouldn't have a problem with that label.

Mr. BLASGEN. Well, there clearly is a problem for multiple labeling directions coming from many different entities.

Mr. PALLONE. So what if it was one national standard, "produced with GE ingredients"?

Mr. BLASGEN. I think if there is a clear national standard, that minimizes the risk in that. I think that they would have an easier time dealing with that type of law versus many, many different types of States imposing laws upon them.

Mr. PALLONE. Thank you.

Mr. PITTS. Mr. Reifsteck, do you want to respond?

Mr. REIFSTECK. Please.

I think American farmers have demonstrated they can produce very safe and abundant and inexpensive food. We have a history

of doing that. And I think if there is a demand for non-GMO foods, American farmers will respond, and they will produce those non-GMO foods.

Our challenge is we don't want consumers, maybe low-income consumers, to have to pay burdensome costs for a supply chain management program if they are not interested in purchasing non-GMO.

So what this act does, it gives us a pathway. As a farmer, I can decide if I want to grow GMO crops or non-GMO crops. There is a standard that it can enter into the marketplace to give consumers not only the right to know but a right to choose products. And I think that is what is powerful about this legislation.

Mr. PITTS. The chair thanks the gentleman and now recognizes the gentleman from Illinois, Mr. Shimkus, 5 minutes for questions.

Mr. SHIMKUS. Thank you, Mr. Chairman.

And to my friend, Ranking Member Pallone, my question is going to follow up on yours in two points.

So one is, that the country feeds the world. United States, we feed the world. And I would argue, being from Illinois—and I am glad John is here—Illinois and the Midwest is a predominant producer of base commodity products that go around the world.

So, John, these two questions are for you. First of all, the last couple years, we had a pretty big drought. Had we had that drought a decade ago or two decades ago, what would have been the result? And what made our ability to withstand the drought survivable?

Mr. REIFSTECK. Well, droughts for farmers are years that burn themselves into your memory. 1993—I can go through the list of these droughts. And I tell people the drought of 2012 was different. Because even though we didn't have a good rainfall and because we had very high temperatures, we still had reasonable yields across much of the corn belt.

And it makes sense, if you can protect a plant from damage to the root system, if you can protect the plant from damage to the stems, if you can protect it from weeds, then it can maximize the use of the water that is available.

Mr. SHIMKUS. And how do you do that?

Mr. REIFSTECK. And you do that with biotechnology.

Mr. SHIMKUS. Thank you.

Mr. REIFSTECK. Biotechnology is the best solution for those problems I just talked about by far. The safest, most efficient way for me to get those kinds of results is by using biotechnology.

Mr. SHIMKUS. And not just in the United States, but as we assist other countries around the world to feed themselves, it is through the great aspect of science that has allowed us to do this. And, unfortunately, it is an untold story in this debate, because without it and the population growth and the climate changes, we could be in a disastrous position.

Let me go to the next question, because it really talks about an individual producer. So the producer sometimes gets lost in this debate. OK, so we have now this bifurcated system of labeling and not labeling and a supply chain. Tell me how a corn or a bean farmer in central Illinois who is planting 750 to 1,000 acres, what would you have to do?

Mr. REIFSTECK. What would I have to do to——

Mr. SHIMKUS. To produce two sets of corn going for the same product, one GMO, one non-GMO.

Mr. REIFSTECK. Well, basically, it would start with the selection of the seed. We would have to buy different kinds of seeds. We would have to make sure that we keep the integrity of that seed, that it only is planted in the field. We would have to do——

Mr. SHIMKUS. You would have to stop the winds maybe?

Mr. REIFSTECK. You would have to stop and clean planters out. You would have to make sure that the right products get incorporated into the field.

Mr. SHIMKUS. You would have to have different silos?

Mr. REIFSTECK. You would absolutely have to have different silos.

Mr. SHIMKUS. Different trucks?

Mr. REIFSTECK. You would have to have—the trucks and the harvesting equipment all would have to be cleaned.

Mr. SHIMKUS. So when it went to the food processing facility, would they have to have different silos?

Mr. REIFSTECK. Absolutely. Absolutely. You would go——

Mr. SHIMKUS. Two different whole chains?

Mr. REIFSTECK. You would go to—special elevators where we deliver grain would have special handling equipment that was designed to handle that equipment and keep it segregated. So, yes——

Mr. SHIMKUS. So I know that corn now is sold around the world. And I was kind of surprised that sometimes they are in containers and container——

Mr. REIFSTECK. Yes.

Mr. SHIMKUS. I always think they would be in a big hull, you know, and you just pour all the corn in.

So what if it pulls up to a port and they do a sample and, of the billions of kernels, they find one that is either/or? Then what happens?

Mr. REIFSTECK. Then that country or company that finds that kernel will decide whether they want that shipment of corn or not. If it is in their favor, they could decide to take it. Or they could decide to reject it.

Mr. SHIMKUS. So this is really a big debate that we are having, and I think we need to tread very careful.

I want to thank my colleague for taking the leadership on this, Mr. Pompeo. I mean, he has the wheat story to tell, I am sure, which is very similar to a corn or a bean story. And we haven't even talked about segueing it into the livestock issue and the feed issue and multiple, multiple other derivations that this—so that is why I am a cosponsor and look forward to working with him as he moves it forward.

And I yield back, Mr. Chairman. Thank you.

Mr. PITTS. The chair thanks the gentleman and now recognizes the gentlelady from California, Mrs. Capps, for 5 minutes.

Mrs. CAPPS. Thank you, Mr. Chairman, for holding this hearing. And I thank each of our witnesses for your testimony.

I firmly believe that consumers have the right to make informed decisions about the food they eat. I hope this is a point on which we all can agree.

And I think there is general agreement that a good Federal standard for genetically engineered, or GE, labeling is preferable to a confusing patchwork of State labeling rules. But there is disagreement about exactly what that standard should be. And I am not convinced that H.R. 1599 will assure consumers that they have the reliable and clear information that they are looking for.

Dr. Jaffe, do you think this bill meets consumer demands for clear, consistent labeling of GE products?

Mr. JAFFE. So I think we don't have a good idea of what consumer demands really are. So there are a number of polls, and if you ask the question, do you want GE labeling, most consumers say yes. If you ask them do they want pesticides labeled, they say yes; if you want antibiotics labeled, they say yes. And as a consumer myself, if somebody offered me more information, why would I say no to that?

But there is a Rutgers poll where they asked open-ended, what new information would you want on the label, and I believe it was 7 percent who said GM labeling. And, again, when they asked people what do they want for all of those different things I just mentioned, everybody said 70 percent for each of those.

So I guess I am not convinced that there is an overwhelming number of consumers. And I think most of those polls show—the Rutgers poll, which I think is a good, independent poll—and I am happy to submit that to the committee.

Ms. CAPPS. That would be great.

Mr. JAFFE. That two-thirds of consumers haven't even had a discussion about this in the last 3 years and don't know about it.

So providing information without knowledge about what that information means can inherently be misleading.

Mrs. CAPPS. Well, could you provide for us, within your purview, the difference between organic, non-GMO, and natural food products? How do these types of products differ from one another? Just to set the record straight here.

Mr. JAFFE. So an organic product, there is an actual definition. So USDA has a definition of what is organic.

Mrs. CAPPS. OK.

Mr. JAFFE. And if you follow that definition, then you can call your food organic in the United States. And those have certain procedures that have to be followed, certain rules that have to be followed. It is not based on science. It is based on did you follow the rule.

Mrs. CAPPS. Right. OK. That is clear then.

Non-GMO, is that—

Mr. JAFFE. So, currently now, there is no uniform definition of what non-GMO is.

Mrs. CAPPS. Oh.

Mr. JAFFE. So there are private certifiers, such as the Non-GMO Project, which have their own definition of it. There are other companies that have come up with their own. And there are countries that call non-GMO—sometimes they use a 1-percent threshold, sometimes they use a 0.9-percent threshold—

Mrs. CAPPS. OK.

Mr. JAFFE [continuing]. A host of different things. So that is not uniform.

Mrs. CAPPS. I understand.

Consumers, however, we all agree, should not be confused about something as basic and fundamental as the food they eat. And consumers should be able to trust that the labeling on the food is accurate and truthful.

And FDA currently has a policy of self-regulation. Producers have the option to voluntarily label their GE foods. However, over 15 years after the implementation of this policy, very few products on the market have been labeled as being genetically engineered. Yet we all know there is a great number of GE foods on the market.

The fact is consumers want to know if their food is GE, and they are calling on policymakers to help make this information more accessible. And I think that is why we are looking carefully at Vermont's new law, because it is a reflection of this consumer demand.

Mr. Daloz, can you explain how the Vermont law differentiates between foods that are labeled as "produced with genetic engineering," and foods that are labeled as "partially produced with genetic engineering"? What is the difference there?

Mr. DALOZ. Certainly, Congresswoman. And this is part of the flexibility that Vermont's law has built into it.

If a product contains less than 70 percent GE material by weight, then a producer can choose to use the statement "partially produced." Otherwise, the standard statement is "produced with genetic engineering"—

Mrs. CAPPS. I see.

Mr. DALOZ [continuing]. And that has to occur on any product.

Mrs. CAPPS. Well, I submit that we need to make sure that labels are clear and informative for consumers, and H.R. 1599 falls short of this standard. But I hope we can work together to find the right balance that works for both consumers, as Vermont has done, or is doing, and industry as well.

And, with that, I yield back the balance. Thank you, Mr. Chairman.

Mr. PITTS. The chair thanks the gentlelady and now recognizes the gentleman from Indiana, Dr. Bucshon, 5 minutes for questions.

Dr. BUCSHON. Thank you very much, Mr. Chairman.

I just want to say I support the consumer's right to know what is in their food products, but I also think it should be based on science. And I support Congressman Pompeo's legislation.

I know it has been said, but I want to reiterate for the record some quotes from organizations around the world, really, talking about GMO.

American Medical Association: "Our AMA recognizes that there is no evidence that unique hazards exist either in the use of GE techniques or in the movement of genes between unrelated organisms. Bioengineering foods have been consumed for close to 20 years, and, during that time, no overt consequences on human health have been reported or substantiated in peer-reviewed literature."

Natural Academies of Science: "Genetic engineering is one of the newer technologies available to produce desired traits in plants and animals used for food, but it poses no health risks that cannot also arise from conventional breeding and other methods used to create new foods." They go on to say, "An analysis of the U.S. experience with genetically engineered crops shows that they offer substantial net environmental and economic benefits compared to conventional crops. Generally, GE crops have fewer adverse effects on the environment than on non-GE crops produced conventionally."

And, finally, the World Health Organization: "GM foods currently available on the international market have passed risk assessments and are not likely to present risks for human health. In addition, no effects on human health have been shown as a result of the consumption of such foods by the general population in the countries where they have been approved."

So, that said, as a medical doctor, I was charged with advising patients on therapy that works, therapy that doesn't work. And, of course, based on the Internet and other sources, there are all kinds of proposed therapies for cancer and heart disease out there that have been unsubstantiated that patients frequently ask me about.

And so I guess my question to everyone on the panel is, should people like elected officials or other people who are in charge of informing the public, should we buy into what I see is a movement without really substantiated reason to be there in the first place? Or, for example, me, buy into a treatment that is not proven to be effective? Or should I lead and should I say to my patients or should I say to the general public what the facts are and not buy into unsubstantiated claims?

And what I see honestly is really, for the most part, a political and economic movement—political because of misinformation and economic because of companies that want their product to be labeled non-GMO so that they can compete with everybody else.

So I will start at the end, and just comment on what your thoughts are. Should we buy in, or should we inform the public and stand up to what is clearly misinformation?

Mr. BLASGEN. Right. As a consumer, I believe we should inform the public, as you say. And I think that everyone here believes there is a right to know and that choice is very much of importance here. We care about consumer choice as consumers, but we also want to understand the implications as an industry person on what demands we are going to place on industry and whether it is going to be effective, as well. And, in this case, we don't think so.

Mr. DALOZ. I think there is a challenge here, and that is that to disable consumers from accessing information that they are interested in having suggests that the government has a role in controlling information people want—

Dr. BUCSHON. I am going to interrupt just briefly. As a medical doctor, should I promote a therapy that I know not to be effective because the Internet says that it is?

Mr. DALOZ. I respect the example. What I would say is that there is no promotion going on in Vermont's law. All there is—

Dr. BUCSHON. Well, there will be because people have a misperception that GMO in some way is inferior to non-GMO products. I am just taking the devil's advocate approach here.

Mr. DALOZ. Absolutely understood. And I think what consumers do with that information and why consumers want the information is not necessarily the role that Vermont's legislature chose to take.

What Vermont's legislature chose to do, after hearing a lot of testimony and really looking at a lot of different sides of the issue, was to say we are going to provide this information to consumers. It is accurate, it is complete, and we are going to let them do what they want.

Dr. BUCSHON. Fair enough.

I want to get the other three in in my last 25 seconds here.

Mr. REIFSTECK. I believe Congress' responsibility is to ensure that American consumers have an accurate, fair, and non-misleading system for labeling foods.

Mr. JAFFE. I think it is Congress' role, I think it is CSPI's role and everybody else to provide the facts to consumers out there. I think the current crops that are engineered are safe, and I think generally this is a safe technology, but you have to look at each application on a case-by-case basis.

Mr. GIDDINGS. Congressman, it is important to recognize that Vermont Act 120 and other similar legislation is a direct consequence of attempts to mislead consumers as to the safety of foods that are derived from crops and foods that are by technology.

I have read every iteration of that law multiple times, and the legislative record is very clear. The findings of fact associated with it put forward a whole host of verifiably false claims about the safety of these foods. And while the State of Vermont, I am completely confident, does not intend to mislead consumers, the folks who pushed them into adopting this legislation and who are leading the campaigns have very different motives.

And, you know, let me give an example of a couple of quotes from them.

Dr. BUCSHON. My time has expired. Can you submit the rest of your response to that for the record?

Mr. GIDDINGS. It is in my written remarks, and——

Dr. BUCSHON. OK. Great.

Mr. GIDDINGS [continuing]. To summarize very briefly, the intention of the folks pushing these mandates for information on labeling is directly to mislead consumers as to their safety as a means of growing their market share.

Dr. BUCSHON. I yield back.

Mr. PITTS. The gentleman's time has expired.

The chair now recognizes the gentleman, Mr. Butterfield, 5 minutes for questions.

Mr. BUTTERFIELD. Thank you very much, Mr. Chairman.

Mr. Chairman, before getting started, I would ask unanimous consent to have two letters inserted into the record, the first one addressed to Members of the House and dated April 28. It is signed by nearly 400 stakeholders, including the National Federation of Farm Bureaus, as well as the State farm bureaus from Alaska to Florida. It is worth noting that the Vermont Farm Bureau is one of the signers. The letter expresses the support of the 400 signers for H.R. 1599.

I offer this letter.

Mr. PITTS. Without objection, so ordered.

[The information appears at the conclusion of the hearing.]

Mr. BUTTERFIELD. Additionally, the second one, Mr. Chairman, addressed to Mr. Pompeo and me and dated April 16, 2015, is from 29 biotechnology industry stakeholders and state biotech associations, including the North Carolina Bioscience Organization and the Bio New Jersey Association. The letter expresses, again, support for 1599.

I offer this letter.

Mr. PITTS. Without objection, so ordered.

[The information appears at the conclusion of the hearing.]

Mr. BUTTERFIELD. Thank you very much, Mr. Chairman.

Mr. Blasgen, I apologize for being in and out, but we are multitasking today, and I think you understand that. But thank you so much for being here today, and thank you for lending this committee your expertise in supply chain management.

I have come to understand our Nation's food supply chain is a vast and interconnected web that starts with seed development and ends on the consumer's plate. The complex process of feeding America is staggering. It is easy to appreciate why upending manufacturing processes would cause significant disruptions to the supply chain, ultimately will result in consumers actually paying more for the same food that they buy today.

Number one, considering that you have spent the last 15 years as a supply chain logistics expert, do you believe a Federal labeling standard is in the best interest of both American consumers and our Nation's food producers?

Mr. BLASGEN. Yes, I do.

Mr. BUTTERFIELD. That is unambiguous. All right. Thank you.

I understand that there are concerns that the cost to comply with the Vermont law could exceed food company sales revenue for products that are actually sold in Vermont.

If companies decide to no longer sell products in Vermont or any other state, as that goes, that has state mandates because it is too costly for them to comply, it is the consumer, not the company, that loses. That is my logic. Would you agree?

Mr. BLASGEN. I do. And as I mentioned in my statement, the grocery manufacturers are very high-volume, low-margin, and they do everything they can to keep very efficient and effective manufacturing operations, as well as distribution operations, right up until the time the consumer consumes the product. Securing that supply chain is very important to them, and they do everything that they can to make it the most efficient possible so that we can pass on those savings to consumers.

Mr. BUTTERFIELD. What are the practical impacts of different state-by-state mandates on consumers? And why is a national standard in the best interest of consumers, in your own words?

Mr. BLASGEN. Right. It would literally mean manufacturing lines all across the country would have to stop and start and stop and start over and over again to change labeling, change packaging, create separate inventories of the same product essentially, ensure that they are segregated so they can end up in the right state. That would complicate things not only in the manufacturing sector but also in the inventory management sector because we would have to ensure those inventories are segregated and tracked as best as

possible to ensure they are ending up in the right states. It is very difficult to do that throughout the entire supply chain.

In particular, I will reiterate the fact that the manufacturers have control of only so much of that supply chain, and they turn it over to the retailers and wholesalers, who redistribute that product to stores. And then it is their job to make sure that product ends up where it is intended.

Mr. BUTTERFIELD. OK.

And now to the other end of the table, Dr. Giddings, and thank you, sir, for coming.

At the December 2014 hearing, one witness said that some food companies label their food as “natural” even though it contains genetically engineered ingredients. He said that some consumers thought that was intentionally misleading because they believed exactly the opposite, that genetic engineering is not natural.

While “natural” is not currently defined, the original version of 1599 would have required FDA to do so. The amendment in the nature of a substitute before us today, though, does not.

Would you please share your views on the use of the term “natural”?

Mr. GIDDINGS. This is something that rabbis and Jesuits could use years discussing.

This much I can tell you: It is not clear to me what the term “natural” means when used in foods, because everything that we eat has been modified from the form it took before humans started to cultivate and care for livestock and so forth. So it has all been changed. Even wild fish stocks we have selected over generations and changed their genetic makeup.

But this much I can tell you: foods derived from crops improved through genetic engineering, so-called GMOs—the term “GMO” has been defined as something modified in a way that does not occur in nature. But in the process of genetic engineering, we scientists in the lab learned how to do these things by observing these phenomena of genetic change happening in nature. These phenomena are widespread; they are found throughout the living world.

The techniques that genetic engineers use in the lab to make these kinds of specific and directed changes with the degree of precision that is unprecedented in the history of humanity, these changes are all changes that we learned how to do by seeing it happen in nature. We use enzymes that we take from nature to make these things happen. If this is not a natural process, I have no idea what a natural process is.

Mr. BUTTERFIELD. Thank you, Mr. Giddings.

My time has expired, but you do believe we need a definition for “natural”? Would that be helpful?

Mr. GIDDINGS. If you could come up with a definition, it would be helpful. But I am not sure it is possible.

Mr. BUTTERFIELD. Thank you.

I yield back.

Mr. PITTS. The chair thanks the gentleman and now recognizes the gentleman from New York, Mr. Collins, 5 minutes for questions.

Mr. COLLINS. Thank you, Mr. Chairman.

This is a great hearing. I appreciate the witnesses' comments. And, certainly, I am a big supporter of Mr. Pompeo's bill.

As we move into an area that I like to equate to hydrofracking, the scare tactics, the disinformation, the misinformation, the outright lies surrounding the safety of hydrofracking took on a life of their own for several years, to the point New York State banned hydrofracking. And, lo and behold, the EPA finally came out with an exhaustive study that said without any doubt that hydrofracking, when done properly, is absolutely safe and does not impose any risks on groundwater contamination. But for 2 years, people were on the Internet showing tap water coming out of the taps and putting a lighter to it and starting it on fire and scaring the bejesus out of the public, that, oh, my God, if that is hydrofracking, you are going to be drinking contaminated water.

I compare that very similar to where we are today on this GMO debate. The opponents of it, like hydrofracking, have gotten out in front and basically said GMO equals bad, GMO equals dangerous. And so now people are at a point where, if they put anything to do with GMOs on their label, the average consumer, from misinformation and disinformation, is going to say, I don't want to buy that. Well, that is a tragedy for America, for the American consumer, and it just is, unfortunately, the facts of the life we live in.

Also, the other issue that I know is problematic is, if every state creates their own labeling standards, if every town and every county, if all 62 counties in New York create their own labeling standard, the types of costs that are going to be passed on to consumers would be mind-boggling.

We have a Cheerios plant just outside of my district, and if every box of Cheerios, you had to create a thousand different boxes because every village, every city, every town, every county, every state in America decided to willy-nilly pass their own laws, you wouldn't be able to afford a box of Cheerios.

And, frankly, as the supply and demand chain goes for a very small state with very few consumers, they would just stop selling in that state. Vermont can go do what they want, but somebody might say, based on the cost of serving a very small market, I guess we will just no longer sell our product into that market. That is what consumers seriously need to be worried about.

So I am just very happy that the FDA would be—we are asking them to do a study on the safety, like we asked the EPA to do a study on the safety of hydrofracking and it came back safe. And I am confident the same study will show that to be the case for GMOs.

And I do think that Congress does have a role to play if there is labeling. We need to be preemptive and cut out the states from willy-nilly, putting out a thousand different sets of regulations. I am a small-government, local-decision-making guy, but this is a place for the Federal Government to step forward.

But an observation and question, perhaps, to Mr. Blasgen: Cornell University, just, again, outside my district, did a study, and the study was: What would be the cost—now, this is certainly an estimate, but they did an actual data-based study—to the average consumer in America were these willy-nilly labeling by state, by town, by county, by village to go forward? And it was \$500 at the

end. They concluded the average family would be paying an additional \$500 a year just for these labels on boxes. And \$500 is a significant dent for getting nothing more than the cost on the producers.

And I just wondered, Mr. Blasgen, have you seen similar studies? Does that make sense? Let's be honest with the consumers: do you want to pay an extra \$500 a year?

Mr. BLASGEN. I have heard about that study, and I think it would probably even increase depending upon the number of states, the number of products that might be magnified by such labeling laws. The complications, the extra inventory, the extra time associated would be quite substantial when you think about all the manufacturers of food products, all the different items, and all the different labels that potentially could be on all these products.

Mr. COLLINS. Yes.

And do you also agree that there is certainly a risk that if a city, town, village, state, especially a small one, decided to pass a labeling law, there would be a fair chance that the supply chain would just simply stop providing that product into that market?

Mr. BLASGEN. It is possible. It all comes down to whether you can make a product, have a healthy margin so the manufacturers—

Mr. COLLINS. You are going to look at your cost, you are going to look at your return and say, you know what, sorry, just not going to sell it into that market anymore. That is what America is all about, with choice and competition.

Well, thank you all for your comments today. And I look forward to a study showing that GMOs, in fact, are safe.

And, with that, Mr. Chairman, I yield back.

Mr. PITTS. The chair thanks the gentleman.

We are voting on the floor. It just started, so we have 14 minutes left. We will go for a while. Then we will have to recess and come back if there are still questions that haven't been asked.

So, at this point, the chair recognizes the gentleman from Oregon, Mr. Schrader, 5 minutes for questions.

Mr. SCHRADER. Thank you, Mr. Chairman.

I guess questions for Mr. Jaffe and Mr. Reifsteck: What is the purpose of FDA labeling? What is the statutory requirement? Why do we label food?

Mr. Jaffe?

Mr. JAFFE. So that the consumers have truthful, non-misleading information about material issues that are important.

Mr. SCHRADER. Mr. Reifsteck?

Mr. REIFSTECK. That would be my understanding also. I am not an expert on the science behind the food labeling, but that would be my understanding, yes.

Mr. SCHRADER. Well, actually, it goes more specific. It talks about nutrition. And the goal is health and safety, obviously, of the American consumer.

I have been listening closely to the discussion. A lot of it just seems like—I would say our bill covers a lot of the concerns that we are talking about here, which is truth and honesty in labeling.

And I think everyone has responded to the chairman and other people's questions that there is currently no evidence that the ge-

netically modified or genetically engineered crops we have to date cause health and safety problems. Our bill provides for, should they do that in the future, they would have to be labeled. This takes into account the fact that we don't know, maybe at some point in time there could be a problem, and FDA could regulate that. I think that is a good thing. I think we all would agree with that at the end of the day.

The bill also—for the right-to-know folks, in my state, we had a big discussion about genetically modified organisms and GE labeling—it also provides for the right to know. It provides a mandatory labeling if you are going to claim that your product is non-GMO. I think that is important. People need to know.

And then there is a process by which FDA and the Secretary can actually establish that. That is good. That allows the consumer to know exactly what he or she is getting.

To the discussion on “natural,” there is a section here—I agree with Mr. Giddings, it would be tough to define “natural.” As an organic farmer, with all due respect to Mr. Daloz, who is talking about this partially produced, 70 percent—it is like being half-pregnant. As an organic farmer and as an organic consumer, I want to know, is it organic or is it not?

And right now I think it is important for members of the committee and citizens in our country to know we already have, a bio-engineering label to some degree; it is called “organic.” As an organic farmer and, frankly, working on the farm bill this last Congress, we spent a lot of time trying to make sure that that meant something, that it was organic or it was not, and that the USDA and FDA had tools in place to actually make that statement.

I have conventional farming friends that also have organic operations. And, yes, they have to use two separate facilities and stuff; there is a cost to it. But they make a market play, or it is a personal, philosophical thing that they want to do that at the end of the day. And that is good. The consumer benefits from that.

The most important thing that this bill does, in my opinion, is it defines what a genetically engineered substance, organism is. Because right now there is nothing out there. There is the blogs, there is this hysteria, there is this—on the other side, the people that say everything has been genetically modified over time. To some extent, that is probably true.

For the consumer that has a problem with stuff being done in vitro—which, as a scientist, I would argue is probably safer than traditional breeding, where you get inadvertent side effects that you can't control, where you can control them by just genetically splicing organisms at the end of the day. But those people that are concerned about that this gives them some certainty this is what this means. It gives the producer some certainty as to what genetically engineered actually means.

And I think it has been clearly stated here that, to have a patchwork of regulatory framework where it sort of means this or it doesn't mean that, when we have food and produce that not only goes across county lines but state lines and now international lines, I think some sort of national standard is crystally clear and needed.

This allows for those that are concerned about GE from a political or philosophical standpoint, not from a food health or safety standpoint, to get that stuff labeled and before them in time.

I think this bill is a great piece of legislation. It doesn't over-legislate. It gives the consumer the right to know what they need to know, but allows American farmers, American food manufacturers to still produce the safest, healthiest food in the world that, I would point out, has increased yield, reduces tillage, reduces use of pesticides—many things that some of the very same people who are against any genetically engineered organism really also want at the end of the day.

So I think this is an excellent compromise and would urge the committee to adopt it at the end of the day.

Thank you, Mr. Chairman. I yield back.

Mr. PITTS. Thanks to the gentleman.

And I now recognize the gentleman from Virginia, Mr. Griffith, for 5 minutes of questions.

Mr. GRIFFITH. Thank you very much, Mr. Chairman. I will try to be quick.

Mr. Jaffe, you indicated in one of the answers earlier that you didn't—and correct me if I got it wrong—that you didn't see any concerns today about allergens, that none of the foods that are out there now that have been genetically engineered have allergen problems, but you were concerned about the future.

Can you get me information on that, if I got that information correct from you originally? Was that correct, what I thought I heard you say?

Mr. JAFFE. Yes. That is correct.

Mr. GRIFFITH. Can you get me some information after the hearing in regard to concerns or papers about concerns about future allergens? As a father of a 9-year-old who has a lot of food allergies, I would be interested in that. Would you do that for me?

Mr. JAFFE. Sure.

Mr. GRIFFITH. And, Mr. Daloz, industry is concerned about potential for private actions against manufacturers. Under your law, I believe the law is maybe unclear on that point.

Does Vermont's law block private rights of action against manufacturers and suppliers? I am not going to ask you for an answer today because we are short on time. I am going to ask you if you would get us something on that.

And if the answer is no, what do you intend to do to limit liability when a product, the person who manufactured it really didn't intend for it to ever end up in Vermont but somebody puts it on the shelf there anyway?

And if you could get me an answer to that at a later date, I would greatly appreciate it. I am trying to make sure that Mr. Pompeo gets an opportunity.

Thank you, gentlemen.

And, with that, Mr. Chairman, I yield back.

Mr. PITTS. I now recognize Mr. Sarbanes for 5 minutes.

Mr. SARBANES. Thank you, Mr. Chairman. I will be shorter than 5 minutes.

I want to thank the panel.

Mr. Jaffe, long time, no see. Thank you for your testimony.

I confess to you, my head is kind of exploding on this, just trying to balance all of these different concerns. So I am still absorbing a lot of the information and perspective related to it.

I take it, Mr. Jaffe, that even though there is a system now whereby the FDA, in effect, says that they think things are OK because they issued this letter that says they don't have any further questions, that you don't view that as an affirmative enough judgment being rendered by the FDA with respect to the safety of the item that is subject to the letter.

Can you just elaborate a little bit more on why you feel that a more proactive, affirmative statement or standard or judgment or opinion on the part of the FDA would make sense in the context of this proposal?

Mr. JAFFE. Sure. Thank you very much for that question.

The FDA letter that comes back at the end of these consultations says—and I am sort of paraphrasing here but sort of quoting—it says, “The FDA has no further questions at this time about your determination that you think the food is safe. You are responsible for safe food.” So the developers, Monsanto or DuPont, that is what the “you” would be referring to in that case.

So the public looks at that letter and says, FDA is not saying it is safe; FDA is saying you have to rely on Monsanto's determination that this is safe. And so I think that may not be an issue of actual safety, but it is an issue of perception of that. So FDA it not giving its opinion at all about that safety.

When you look at—and the Congressman from Oregon mentioned his state had a referendum on mandatory labeling. There have been four states that have had those referendums. When you ask the consumers—and almost 50 percent voted for those—why did they vote for those, they say, “Because we weren't sure these foods are safe. We want to avoid them because we are not sure they are safe.”

So the solution to that is not to label at the back end; the solution is for FDA to confirm to consumers that those foods are safe on an individual, case-by-case basis for each individual product. And so I think that is what every other country in the world does in this area before they approve genetically engineered foods. Their food safety authority equivalent to FDA does it.

And what is ironic about it, in the United States, USDA, you can't plant one of these crops without USDA saying they are safe, but we can eat the foods from them without FDA saying they are safe. That is not a product of a policy decision. It is a product of using old laws and fitting new technology into that. And I think—

Mr. SARBANES. Right. OK. Well, I appreciate that. My sense is you would believe that having that new standard would help address some of the anxiety that people legitimately feel about whether there are safety concerns there or not. And, in so doing, you might lessen the demand for the kind of labeling that Mr. Giddings and others are reluctant to see imposed.

So I don't understand why there is a total departure between the two of you on this topic, because it seems that one would help the other to some degree.

I am going to switch gears, and I am going to try to wrap up.

I gather that the Vermont labeling bill is one that would require the producer, the manufacturer, whatever the right term is here for the person putting the label on there, to indicate that it is partially produced or wholly produced by GE, but that a label saying "may contain GE" is not an option? Or is it if there is no way to determine the origins?

Mr. DALOZ. I think that is an important point to make. It is an option. And producers can choose to qualify the "produced with genetic engineering" with the term "may be" if they, after reasonable inquiry, can't determine whether their product is produced with genetic engineering.

Mr. SARBANES. But if they can determine it, they cannot choose to say "may."

Mr. DALOZ. Precisely. It has to be accurate.

Mr. SARBANES. That, to me, would be a solution to the entire problem in some ways.

In any event, thank you all for your testimony.

I will yield back.

Mr. PITTS. The chair thanks the gentleman.

We are voting on the floor. We have 2-plus minutes left.

The chair recognizes the gentlelady from Indiana, Mrs. Brooks.

Mrs. BROOKS. Mr. Chairman, I heard yesterday from Beck's Hybrids, a family-owned pioneer in the biotech world in seed production, who is in strong support of this bill.

And I yield the remainder of my time to the gentleman from Kansas, Mr. Pompeo.

Mr. POMPEO. Thank you, Mrs. Brooks. I appreciate that.

And I thank you all for being here, as well.

Mr. Daloz, you said that you trust people to make their own decisions. In fact, we saw Mr. Welch hold up a container that said non-GMO today under the current law. Would that producer still be able to produce that container after H.R. 1599 passed?

Mr. DALOZ. That is not my understanding of H.R. 1599.

Mr. POMPEO. So, he would. You understand it incorrectly. Because this is exactly what I wanted to address.

There is nothing in this legislation that denies any food producer any ability to market their product as non-GMO as long as that is a truthful statement and accurate. That proves my point precisely. Chipotle could still sell you a 5,000-calorie burrito that was non-GMO and tell you it was a good idea. As long as it was truthful and accurate, they could continue to do that. And this is exactly what I wanted to get at.

So you suggested that somehow H.R. 1599 denies anyone the right to know anything. But it doesn't. Can you tell me where in the bill you see that it would prevent someone from doing that?

Mr. DALOZ. I don't have the draft directly in front of me. My understanding is that a portion of title 1 of the amendment in the nature of a substitution suggests that it would be misbranding if a product were labeled without following some of the procedures laid out in title 2. I think it is 291(b) and (c).

And my understanding of those is, at the point in time that H.R. 1599 took effect, there would be no state laws that could exist. And there would be up to a year, possibly longer, for the regulations to come into effect, which would essentially mean that, at the point

in time H.R. 1599 took effect, it would be a rollback of the status quo today and certainly would eliminate——

Mr. POMPEO. There would be hundreds of thousands of state laws still in effect. There just would be no ability for a state to have mandatory labeling.

There would still be complete freedom for every company in the world that wanted to market their products as being something that was truthful, including non-GMO—they could continue to do so. There is absolutely no denial of anyone's right to know whether that product is there. And someone who only wants to eat non-GMO ice cream can do so today, and they can do so once we get H.R. 1599 passed.

And so, if I am right about that, you will come join me on the podium when we celebrate its passage, I assume, and I will look forward to that.

You also talked about there being lots of popularity for this. Has this ever passed by referendum in any state in the United States of America that you know of?

Mr. DALOZ. In Vermont, it was passed through the legislature——

Mr. POMPEO. My question was a yes-or-no question. Has it ever passed by referendum anywhere? When it has been put to the people, have they ever approved what you are proposing?

Mr. DALOZ. Not to my knowledge.

Mr. POMPEO. Right. So every time it has been on the ballot, the American people have rejected it. And I think that is important for folks to understand, because there is this idea somehow there is this tidal wave of demand and everyone is screaming for it.

In fact, Mr. Jaffe, a question to you. First of all, I want to say thank you. I have appreciated your counsel through this. You have been reasonable and rational and thoughtful, and I greatly appreciate that. We differ a little bit on the front end. I am happy to try and work with you to get that a little bit better. And I appreciate that.

But you said 7 percent of the people want it. I don't know exactly how many it is. But my bill, in your judgment, it will allow those 7 percent of the people to continue to eat all non-GMO food if they chose and to only purchase products that contained a label that reflected that. Even after this bill came to passage, they could continue to do that, and they could pay the premium that was required, and life would be good for them.

Is that correct?

Mr. JAFFE. Yes. If the bill was passed, I do think it is important that for foods that are labeled non-GMO, that there is a Federal standard for that. Because right now consumers aren't necessarily getting what they are paying for.

So, again, I would say there is no need for a consumer to want to purchase non-GMO food, but there are consumers who want to do that. I think you do need a Federal standard for setting what that means.

Mr. POMPEO. I appreciate that distinction.

I just want to clarify one thing to clean up something a little bit. Mr. Daloz, you kind of gave an answer that I want to just make sure I have right.

So when the FDA came to testify, Michael Landa testified, he said that the FDA was confident that GE foods in the marketplace today are as safe as their conventionally bred counterparts. I asked Representative Kate Webb, the assistant majority leader in Vermont, that question. She said she agreed with it.

I assume you agree with that statement from the FDA, as well?

Mr. DALOZ. I do. I don't have any reason to disagree with it.

Mr. POMPEO. So you agree with it too. Great.

Thank you, Mr. Chairman. And thank you for your consideration and your help with this.

I yield back the balance of my time.

Mr. PITTS. The chair thanks the gentleman.

That concludes the questions of the members who are present. We will have questions in writing that we will submit to you. We ask that you please respond.

I remind members they have 10 business days to submit questions for the record. And that means they should submit their questions by the close of business on Thursday, July 2.

Very good hearing. Very important hearing.

Thank you for your testimony and your expertise.

Without objection, the subcommittee hearing is adjourned.

[Whereupon, at 12:18 p.m., the subcommittee was adjourned.]

[Material submitted for inclusion in the record follows:]

Congress of the United States
Washington, DC 20515

June 18, 2015

The Hon. Chairman Fred Upton
House Committee on Energy & Commerce
2125 Rayburn House Office Building
Washington, DC 20515

The Hon. Ranking Member Frank Pallone
House Committee on Energy & Commerce
2322A Rayburn House Office Building
Washington, DC 20515

The Hon. Chairman Joe Pitts
House Committee on Energy & Commerce
Subcommittee on Health
2125 Rayburn House Office Building
Washington, DC 20515

The Hon. Ranking Member Gene Green
House Committee on Energy & Commerce
Subcommittee on Health
2322A Rayburn House Office Building
Washington, DC 20515

Dear Chairman Upton, Ranking Member Pallone, Chairman Pitts, and Ranking Member Green,

We thank you for your leadership and continued support for national uniformity regarding the labeling of agricultural products derived with or without the use of biotechnology. We too support the objectives of the legislation introduced by Representatives Pompeo and Butterfield and appreciate opportunities to strengthen this bill as it proceeds through the legislative process.

Mankind has used biological technologies for more than 10,000 years to improve crops and livestock, and make useful food products. Biotechnology is a critical component of any farmer's toolbox if we are to feed an estimated 10 billion people by the year 2050 in an environmentally sound, sustainable, and affordable way. Unfortunately, state based labeling programs for food products produced using biotechnology threaten to halt the orderly and efficient production and distribution of these food products within the United States.

Currently, 26 states have some form of biotech labeling legislation pending. These proposals, if enacted, would establish inconsistent and unworkable policies that would burden consumers with additional costs and competing label claims. Entrepreneurs, as well as established food processors and distributors would be forced to create myriad labels whose only benefit would be to satisfy the minutiae of each state's labeling schemes. Increasing consumer costs and confusion should not be the result of a sound, thoughtful public policy.

With this reality in mind, we all agree that Congressional action to preserve efficiency in interstate commerce through national uniformity in labeling is necessary. We are aware and

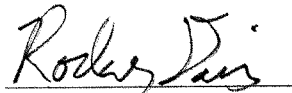
supportive of the ongoing dialogue between the Committee on Agriculture and the Committee on Energy and Commerce regarding H.R. 1599, the Safe and Accurate Food Labeling Act of 2015 that has resulted in the public release of an amended substitute bill.

We recognize that this amended bill would both strengthen the existing robust biotechnology review process between USDA and FDA and facilitate the orderly marketing of agricultural products in interstate and foreign commerce.

In our view, H.R. 1599, as amended, would enhance label transparency and consumer choice by creating a voluntary process for the certification of food that does not contain agricultural biotechnology. This approach is similar to programs that already exist at USDA and makes full use of USDA's expertise in the development of world-recognized process-based certification programs.

We look forward to supporting your efforts as the legislative process moves forward.

Sincerely,



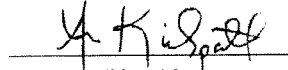
Rodney Davis
Member of Congress



David Scott
Member of Congress



Doug LaMalfa
Member of Congress



Anh Kirkpatrick
Member of Congress



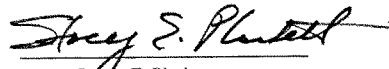
David Rouzer
Member of Congress




Jim Costa
Member of Congress



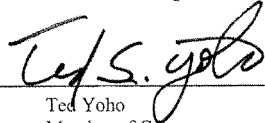
Austin Scott
Member of Congress



Stacey E. Plaskett
Member of Congress



Bob Gibbs
Member of Congress



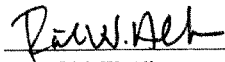
Ted Yoho
Member of Congress



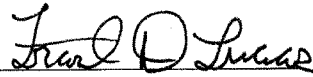
John Moolenaar
Member of Congress



Rick Crawford
Member of Congress



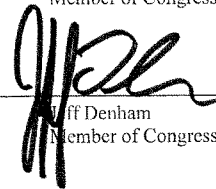
Rick W. Allen
Member of Congress



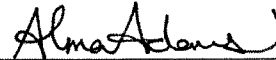
Frank Lucas
Member of Congress



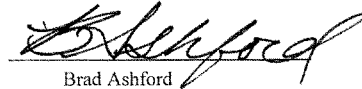
Scott DesJarlais, MD
Member of Congress



Jeff Denham
Member of Congress



Alma Adams
Member of Congress



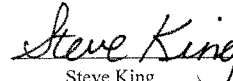
Brad Ashford
Member of Congress



Vicki Hartzler
Member of Congress



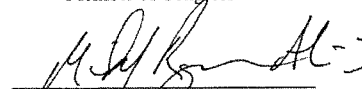
Ralph Abraham, MD
Member of Congress



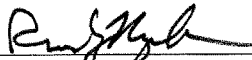
Steve King
Member of Congress



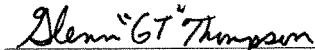
Mike Bost
Member of Congress

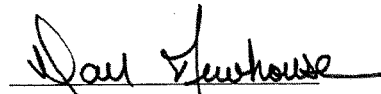


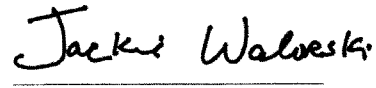
Mike Rogers
Member of Congress

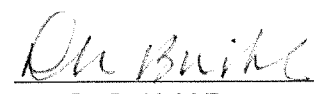


Randy Neugebauer
Member of Congress


Glenn "GT" Thompson
Member of Congress

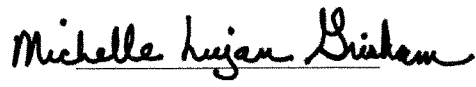

Dan Newhouse
Member of Congress


Jackie Walorski
Member of Congress


Dan Benishek MD
Member of Congress

CC: The Hon. Chairman Mike Conaway, The Hon. Ranking Member Collin Peterson, The Hon. Mike Pompeo, The Hon. G.K. Butterfield

RD/BF

A handwritten signature in black ink, reading "Michelle Lujan Grisham". The signature is written in a cursive style with a horizontal line underneath.

Michelle Lujan Grisham
Member of Congress

A handwritten signature in black ink, reading "Filemon Vela". The signature is written in a cursive style with a horizontal line underneath.

Filemon Vela
Member of Congress



April 28, 2015

Honorable Members of the U.S. House of Representatives:

We are writing on behalf of the Coalition for Safe and Affordable Food about a significant development that could impact American consumers, businesses, farmers and food manufacturers. At a time when legislative consensus is hard to come by, it is notable that substantial bipartisan support is building behind a national, voluntary food labeling standard for products containing ingredients derived from genetically modified organisms (GMOs).

Representatives Mike Pompeo (R-KS) and G.K. Butterfield (D-NC) have introduced H.R. 1599, the Safe and Accurate Food Labeling Act — bipartisan legislation that will ensure food labeling in the United States is uniform and science-based. The March 25 bill introduction came one day after the House Committee on Agriculture held a hearing on the critical role of biotechnology in the advancement and sustainability of American farming.

Today interest groups across the country are pushing state-level labeling mandates that will exacerbate consumer confusion and drive up food prices. Instead of informing consumers, these state initiatives are filled with loopholes, exempting as much as two-thirds of foods. The result will be higher food prices for hard working American families — as much as \$500 a year for a family of four, according to a study by Cornell University Professor William Lesser¹.

By putting a stop to the patchwork of state-based labeling requirements, the Safe and Accurate Food Labeling Act will protect consumers from unpredictable price variations and protect farmers and food manufacturers from having to contend with inconsistent and costly regulations.

GMOs have been an important part of our nation's food supply for the past 20 years, and 70-80 percent of the foods people eat in the United States contain ingredients that have been genetically engineered. In addition, the leading health and regulatory bodies in the world, from the World Health Organization to the American Medical Association, have all concluded GMOs are safe.

The Safe and Accurate Food Labeling Act will give consumers, farmers, and small businesses certainty. The proposed legislation also would improve clarity for foods carrying a GMO-free label and provide uniform rules by creating a national certification program for foods that have been produced without bioengineering.

We encourage you to consider cosponsoring H.R. 1599, the Safe and Accurate Food Labeling Act and support its adoption — and we would be pleased to talk with you or provide any information on this issue. We believe that it is imperative that Congress pass a bipartisan bill this year to ensure people across our nation continue to have access to consistent science-based standards for food labeling.

Sincerely,

AACC International
AgriBank, FCB
Agribusiness Council of Indiana

Agricultural Council of Arkansas
Agricultural Council of California
Agricultural Retailers Association



AgriGrowth
 Agri-Mark, Inc.
 Alabama Farmers Cooperative, Inc.
 Alabama Farmers Federation
 Alabama Soybean and Corn Association
 Alaska Farm Bureau
 Amalgamated Sugar Company (ID, OR, WA)
 American Agri-Women
 American Bakers Association
 American Beverage Association
 American Crystal Sugar Company (MN, ND)
 American Farm Bureau Federation
 American Feed Industry Association
 American Frozen Food Institute
 American Fruit and Vegetable Processors and Growers
 Coalition
 American Phytopathological Society
 American Seed Trade Association
 American Society of Sugar Beet Technologists
 American Soybean Association
 American Sugarbeet Growers Association
 Ameriflax
 AMPI
 Arizona Beverage Association
 Arizona Cotton Growers Association
 Arizona Farm Bureau
 Arkansas Beverage Association
 Arkansas Farm Bureau
 Arkansas Seed Dealers Association
 Arkansas Soybean Association
 Associated Oregon Industries
 Barrel O' Fun Snack Foods
 BASF Corporation
 Bayer CropScience, LP
 Beet Sugar Development Foundation
 Better Made Snack Foods, Inc.
 Beverage Association of Tennessee
 Big Horn Basin Beet Growers (WY)
 Big Horn County Sugar Beet Growers (MT)
 BIOForward
 Bioscience Association of North Dakota
 Biotechnology Industry Organization
 Blue Diamond Growers
 Bunge North America Inc.
 Calcot, Ltd.
 California Association of Winegrape Growers
 California Beet Growers
 California Canning Peach Association
 California Farm Bureau
 California Grain & Feed Association
 California League of Food Processors
 California Seed Association
 California-Nevada Beverage Association
 Cargill Inc.
 Caudill Seed Company, Inc.
 Ceres Solutions, LLP
 Chemistry Council of New Jersey
 CHS Inc
 Co-Alliance LLP
 CoBank
 Colorado Association of Distributors
 Colorado Association of Wheat Growers
 Colorado Bioscience Association
 Colorado Corn Growers Association
 Colorado Dairy Farmers
 Colorado Farm Bureau
 Colorado Potato Legislative Association
 Colorado Seed Industry Association
 Colorado Sugarbeet Growers
 Commerce and Industry Association of New Jersey
 ConAgra Foods, Inc.
 Congressional Hunger Center
 Connecticut Bioscience Growth Council
 Cooperative Milk Producers Association
 Corn Growers Association of North Carolina
 Corn Producers Association of Texas
 Corn Refiners Association
 Council for Responsible Nutrition
 CropLife America
 Dairy Farmers of America
 Delaware Farm Bureau
 Delaware-Maryland Agribusiness Association
 Dow AgroSciences
 DSM Nutritional Products
 DuPont
 Elwyhee Beet Growers (ID)



Empire State Potato Growers Inc. (NY)
 Equity Cooperative Livestock Sales Association
 Exotic Wildlife Association
 Farmers Cooperative Creamery
 FarmFirst Dairy Cooperative
 First District Association
 Flavor & Extract Manufacturers Association
 Florida Beverage Association
 Florida Farm Bureau
 Florida Feed Association, Inc.
 Florida Fertilizer & Agrichemical Association
 Florida Seed Association, Inc.
 Food Industry Alliance of New York State
 Foremost Farms USA
 Furmano's
 General Mills Inc.
 Georgia Beverage Association
 Georgia Cattlemen's Association
 Georgia Cotton Commission
 Georgia Farm Bureau
 Georgia-Florida Soybean Association
 Global Cold Chain Alliance
 Global Harvest Initiative
 Grain and Feed Association of Illinois
 Great Plains Canola Association
 Grocery Manufacturers Association
 GROWMARK, Inc.
 Harvey County Farm Bureau
 Hawaii Crop Improvement Association
 Hoosier Beverage Association
 House-Autry Mills
 Idaho Eastern-Oregon Seed Association
 Idaho Farm Bureau
 Idaho Grain Producers Association
 Idaho Grower Shippers Association
 Idaho Potato Commission
 Idaho Soft Drink Association, Inc.
 Idaho Sugar Beet Growers
 Illinois Beverage Association
 Illinois Corn Growers Association
 Illinois Farm Bureau
 Illinois Manufacturers' Association
 Illinois Retail Merchants Association

Illinois Seed Trade Association
 Illinois Soybean Association
 Independent Bakers Association
 Independent Professional Seed Association
 Indiana Chamber of Commerce
 Indiana Corn Growers Association
 Indiana Farm Bureau
 Indiana Petroleum Marketers & Convenience Store Association
 Indiana Seed Trade Association
 Indiana Soybean Alliance
 Infant Nutrition Council of America
 International Dairy Foods Association
 International Franchise Association
 Iowa Corn Growers Association
 Iowa Farm Bureau
 Iowa Institute for Cooperatives
 Iowa Seed Association
 Iowa Soybean Association
 Kansas Agribusiness Retailers Association
 Kansas Beverage Association
 Kansas Cooperative Council
 Kansas Corn Growers Association
 Kansas Farm Bureau
 Kansas Grain & Feed Association
 Kansas Soybean Association
 Kellogg Company
 Kentucky Beverage Association
 Kentucky Farm Bureau
 Kentucky Life Science Council
 Kentucky Soybean Association
 Kitchen Cooked, Inc.
 Kraft Foods Group, Inc.
 Land O'Lakes, Inc.
 LifeScience Alley
 Louisiana Farm Bureau
 Louisiana Soybean Association
 Maine Beverage Association
 Maine Potato Board
 Maryland and Virginia Milk Producers Cooperative Association
 Maryland Farm Bureau
 Maryland Grain Producers Association



Massachusetts Beverage Association
 Massachusetts Biotechnology Council
 McCormick & Company Inc.
 MD/DC/DE Beverage Association
 MichBio
 Michigan Agri-Business Association
 Michigan Bean Commission
 Michigan Corn Growers Association
 Michigan Farm Bureau
 Michigan Food and Beverage Association
 Michigan Manufacturers Association
 Michigan Milk Producers Association
 Michigan Soft Drink Association
 Michigan Soybean Association
 Michigan Sugar Company
 Mid Kansas Cooperative Association
 Mid-Atlantic Soybean Association
 Midwest Food Processors Association
 Midwest Forage Association
 Minn-Dak Farmers Cooperative (MN/ND)
 Minnesota AgriGrowth Council
 Minnesota Beverage association
 Minnesota Canola Council
 Minnesota Chamber of Commerce
 Minnesota Corn Growers Association
 Minnesota Crop Production Retailers
 Minnesota Farm Bureau
 Minnesota Grain and Feed Association
 Minnesota Soybean Growers Association
 Mississippi Farm Bureau
 Mississippi Soybean Association
 Missouri Agribusiness Association
 Missouri Beverage Association
 Missouri Corn Growers Association
 Missouri Farm Bureau
 Missouri Soybean Association
 Mondelez International
 Monsanto Company
 Montana Beverage Association
 Montana Grain Growers Association
 Montana-Dakota Beet Growers (MT/ND)
 National Agricultural Aviation Association
 National Alfalfa & Forage Alliance

National Association of Manufacturers
 National Association of Wheat Growers
 National Barley Growers Association
 National Confectioners Association
 National Corn Growers Association
 National Cotton Council
 National Council of Farmer Cooperatives
 National Fisheries Institute
 National Grain & Feed Association
 National Grape Cooperative Association, Inc.
 National Milk Producers Federation
 National Oilseed Processors Association
 National Potato Council
 National Restaurant Association
 National Turkey Federation
 NEBCO Beet Growers (NE/CO)
 Nebraska Cooperative Council
 Nebraska Corn Growers Association
 Nebraska Dry Bean Commission
 Nebraska Farm Bureau
 Nebraska Grain and Feed Association
 Nebraska Soybean Association
 Nebraska Sugarbeet Growers
 Nevada Farm Bureau
 New England Biotech Association
 New Hampshire Farm Bureau
 New Mexico Farm Bureau
 New York Corn and Soybean Growers Association
 New York Farm Bureau
 New York State Agribusiness Association
 New York State Grange
 North American Millers Association
 North Carolina Beverage Association
 North Carolina Cotton Producers Association
 North Carolina Farm Bureau
 North Carolina Potato Association
 North Carolina Soybean Producers Association
 North Carolina Sweet Potato Commission
 North Dakota Corn Growers Association
 North Dakota Farm Bureau Federation
 North Dakota Grain Dealers Association
 North Dakota Soybean Growers Association
 Northarvest Bean Growers Association



Northeast Dairy Foods Association
 Northern Canola Growers Association
 Northwest Dairy Association/Darigold, Inc.
 Northwest Food Processors Association
 Northwest Grocery Association
 Nyssa-Nampa Sugarbeet Growers (ID/OR)
 Ocean Spray Cranberries, Inc.
 Ohio AgriBusiness Association
 Ohio Corn and Wheat Growers Association
 Ohio Dairy Producers Association
 Ohio Farm Bureau
 Ohio Manufacturers' Association
 Ohio Soft Drink Association
 Ohio Soybean Association
 Oklahoma Agricultural Cooperative Council, Inc.
 Oklahoma Grain & Feed Association
 Oklahoma Seed Trade Association
 Oklahoma Soybean Association
 Oregon BioScience Association
 Oregon Cherry Growers, Inc.
 Oregon Farm Bureau
 Oregon Feed and Grain Association
 Oregon Retail Council
 Oregon Seed Association
 Pacific Coast Producers
 Pacific Seed Association
 Pennsylvania Beverage Association
 Pennsylvania Corn Growers Association
 Pennsylvania Farm Bureau
 Pennsylvania Food Merchants Association
 PepsiCo, Inc.
 Plains Cotton Growers, Inc.
 Potato Growers of Michigan, Inc.
 Prairie Farms Dairy, Inc.
 Pretzels, Inc.
 Red River Valley Sugarbeet Growers (ND/MN)
 Retail Association of Nevada
 Retailers Association of Massachusetts
 Rhode Island Beverage Association
 Rhode Island Farm Bureau
 Rocky Mountain Food Industry Association
 Rolling Plains Cotton Growers, Inc.
 Rudolph Foods

Savor Seasonings, LLC
 Select Milk Producers, Inc.
 Shearer's Foods, LLC
 Sidney Sugars Incorporated (MT)
 Snack Food Association
 South Carolina Beverage Association
 South Carolina Farm Bureau
 South Carolina Soybean Association
 South Dakota Agri-Business Association
 South Dakota Association of Cooperatives
 South Dakota Farm Bureau
 South Dakota Grain & Feed Association
 South Dakota Soybean Association
 South Dakota Wheat Growers
 South Texas Cotton & Grain Association
 Southeast Milk, Inc.
 Southern Cotton Growers, Inc.
 Southern Minnesota Beet Sugar Cooperative
 Southern Montana Sugarbeet Growers
 Southern Rolling Plains Cotton Growers Association
 Southern States Cooperative
 St. Alban's Cooperative Creamery
 Tennessee Cattlemen's Association
 Tennessee Dairy Producers
 Tennessee Farm Bureau
 Tennessee Pork Producers Association
 Tennessee Poultry Association
 Tennessee Soybean Association
 Texas Grain & Feed Association
 Texas Poultry Federation
 Texas Seed Trade Association
 Texas Soybean Association
 Texas Wine and Grape Growers Association
 The Coca-Cola Company
 The Hershey Company
 The J.M. Smucker Company
 U.S. Beet Sugar Association
 U.S. Canola Association
 U.S. Dry Bean Council
 Unilever
 United Dairymen of Arizona
 United Potato Growers of America
 Utah Beverage Association



Utah Food Industry Association
 Utah Retail Merchants Association
 Utz Quality Foods
 Vermont Farm Bureau
 Virginia Beverage Association
 Virginia Farm Bureau
 Virginia Soybean Association
 Washington Biotechnology & Biomedical Association
 Washington Farm Bureau
 Washington Friends of Farms & Forests
 Washington State Council of Farmer Cooperatives
 Washington State Potato Commission
 Welch Foods Inc.

Western Plant Health Association
 Western Sugar Cooperative (CO, MT, NE, WY)
 Wisconsin Agri-Business Association
 Wisconsin Beverage Association
 Wisconsin Farm Bureau Federation
 Wisconsin Manufacturers and Commerce
 Wisconsin Potato and Vegetable Growers Association
 Wisconsin Soybean Association
 Wisconsin Technology Council
 Wise Foods
 Wyandot, Inc.
 Wyoming Sugar Company
 Wyoming Sugar Growers

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ⁱ <http://dyson.cornell.edu/people/profiles/docs/LabelingNY.pdf>



April 16, 2015

The Honorable Mike Pompeo
U.S. House of Representatives
436 Cannon House Office Building
Washington, D.C. 20515

The Honorable G. K. Butterfield
U.S. House of Representatives
2305 Rayburn House Office Building
Washington, D.C. 20515

Dear Representatives,

The biotechnology industry applauds your commitment to modern agricultural tools and your decision to engage Congress in the conversation about "GMOs" by authoring H.R. 1599, the *Safe and Accurate Food Labeling Act*. We support this bipartisan legislation and urge its prompt passage in the House of Representatives.

H.R. 1599 is very important to consumers because it would better inform the public about the presence or absence of "GMOs" in food, would enhance public confidence in food safety by reaffirming FDA as the national authority for food labeling policy, and would require "GMO" food safety information to be made publicly available by FDA. By doing these things, the legislation would help the country move beyond state-by-state "GMO" labeling challenges that are needlessly undermining consumer confidence and threatening to harm state economies.

The biotechnology industry understands consumers have questions about how our food is grown, including the use of "GMOs." We are committed to nurturing a transparent dialogue with consumers in this regard and to working with stakeholders and public officials to enhance the information available to the public about the use of biotechnology in agricultural production. One successful transparency program is known as GMO Answers, which can be accessed at www.gmoanswers.com.

We commend your leadership and look forward to working with you to ensure the *Safe and Accurate Food Labeling Act* is approved in the House without delay.

Sincerely,

Biotechnology Industry Organization (BIO)
Arizona Bioindustry Association (AZBio)
BayBio (CA)
Biocom (CA)
BioKansas
Bio Nebraska Life Sciences Association
BioNJ
Bioscience Association of North Dakota (Bio ND)
BioOhio
Colorado Bioscience Association
CURE – Connecticut United for Research Excellence
Delaware Bio
Idaho Technology Council
Illinois Biotechnology Industry Organization – iBIO ®
Indiana Health Industry Forum
IowaBio
Kentucky Life Sciences Council
Life Science Alley (MN)
LouisianaBio
Massachusetts Biotechnology Council (MassBio)
Michigan Biosciences Industry Association (MichBio)
Missouri Biotechnology Association (MOBIO)
North Carolina Bioscience Organization (NCBIO)
NewYorkBio
Puerto Rico Bio Alliance / INDUNIV
SCBIO
Southern California Biomedical Council (SoCalBio)
South Dakota Biotech
Virginia Bio



Erik Glavich

Director, Legal & Regulatory Policy
Infrastructure, Legal & Regulatory Policy

June 17, 2015

The Honorable Joe Pitts
Chairman
Subcommittee on Health
Committee on Energy and Commerce
United States House of Representatives
Washington, DC 20515

The Honorable Gene Green
Ranking Member
Subcommittee on Health
Committee on Energy and Commerce
United States House of Representatives
Washington, DC 20515

Dear Chairman Pitts and Ranking Member Green,

On behalf of the National Association of Manufacturers (NAM), the largest manufacturing association in the United States representing manufacturers in every industrial sector and in all 50 states, I am writing to express support for H.R. 1599, the Safe and Accurate Food Labeling Act of 2015. Introduced by Representatives Mike Pompeo (R-KS) and G.K. Butterfield (D-NC), H.R. 1599 is a bipartisan, commonsense measure that would establish uniformity in food and beverage labeling and ensure the labeling of products addresses health and consumer safety concerns.

Manufacturers are pleased that the Subcommittee on Health is examining labeling regulations for food products or foods containing ingredients derived from biotechnology (genetically modified organisms or GMOs) and their impact on interstate commerce and consumers. There is no federal labeling standard that directly applies to GMO foods, and as states consider their own GMO labeling standards, a myriad of conflicting state standards would greatly harm the ability of manufacturers, suppliers, distributors and farmers to efficiently produce and transport agricultural and food products. This would dramatically increase costs for both producers and consumers.

We are encouraged that the Subcommittee will review a draft substitute to H.R. 1599 and urge Congress to quickly pass this critical legislation. The Safe and Accurate Food Labeling Act would provide the U.S. Food and Drug Administration (FDA)—the nation's foremost food safety agency—with the authority it needs to establish voluntary standards for GMO foods and to require mandatory labeling of those products if they are found to be unsafe or materially different from foods produced without GMOs. The legislation would ensure that federal policies on food labeling protect consumers and allow them to make the best food and beverage choices for their families. H.R. 1599 would increase coordination between FDA and the U.S. Department of Agriculture to further ensure the safety of GMO agricultural and food products. The legislation also would establish a transparent, consistent GMO-free certification program, bringing clarity to consumers who choose to purchase GMO-free foods.

Manufacturers are critically important to the success of the federal government's domestic and global feeding and nutrition programs. The food and beverage industry contributes billions in food, supplies and money to combat hunger and malnutrition in the U.S. and around the world. Biotechnology has fostered a revolution in American agriculture that has

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benefitted consumers in the U.S. and around the world. GMOs enable America's food producers to more efficiently use resources and allow farmers to withstand crippling droughts and ward off disease or pestilence.

The Safe and Accurate Food Labeling Act will advance a federal policy that ensures a safe and affordable food supply while supporting biotechnology research and development by manufacturers in the U.S. Thank you for your leadership on this issue and your continued commitment to protect public health and safety.

Sincerely,

A handwritten signature in black ink, appearing to be "C. W. H.", written in a cursive style.

FRED UPTON, MICHIGAN
CHAIRMAN

FRANK PALLONE, JR., NEW JERSEY
RANKING MEMBER

ONE HUNDRED FOURTEENTH CONGRESS
Congress of the United States
House of Representatives
COMMITTEE ON ENERGY AND COMMERCE
2125 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6115
Majority (202) 225-2977
Minority (202) 225-3641

July 13, 2015

Mr. Rick Blasgen
President and CEO
Council of Supply Chain Management Professionals
333 East Butterfield Road
Lombard, IL 60148

Dear Mr. Blasgen:

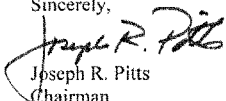
Thank you for appearing before the Subcommittee on Health on June 18, 2015, to testify at the hearing entitled "A National Framework for the Review and Labeling of Biotechnology in Food."

Pursuant to the Rules of the Committee on Energy and Commerce, the hearing record remains open for ten business days to permit Members to submit additional questions for the record, which are attached. The format of your responses to these questions should be as follows: (1) the name of the Member whose question you are addressing, (2) the complete text of the question you are addressing in bold, and (3) your answer to that question in plain text.

To facilitate the printing of the hearing record, please respond to these questions with a transmittal letter by the close of business on July 27, 2015. Your responses should be mailed to Graham Pittman, Legislative Clerk, Committee on Energy and Commerce, 2125 Rayburn House Office Building, Washington, D.C. 20515 and e-mailed in Word format to graham.pittman@mail.house.gov.

Thank you again for your time and effort preparing and delivering testimony before the Subcommittee.

Sincerely,


Joseph R. Pitts
Chairman
Subcommittee on Health

cc: The Honorable Gene Green, Ranking Member, Subcommittee on Health

Attachment



Council of Supply Chain Management Professionals
333 East Butterfield Road, Suite 140
Lombard, Illinois 60148-5617 USA
phone +1 630.574.0985 fax +1 630.574.0989

July 21, 2015

Graham Pittman
Legislative Clerk
Committee on Energy & Commerce
2125 Rayburn House Office Building
Washington DC 20515

Re: "A National Framework for the Review and Labeling of Biotechnology in Food" - Additional
Questions for the Record

Dear Mr. Pittman,

It was my pleasure to appear June 18 before the Subcommittee on Health and to testify at the
"A National Framework for the Review and Labeling of Biotechnology in Food."

Please find attached my response to the additional questions that were asked.

Sincerely,

Rick Blasgen
President & CEO



The Honorable Representative Burgess

1) Do you agree that there should be one definition for “non-GMO” under federal law because otherwise consumers will be deceived as to what “non-GMO” on a label actually means?

A company that has already met the definition of organic has met the federal definition of “non-GMO” and therefore should automatically be eligible for a new “non-GMO” certification should a new “non-GMO” labeling program be created.

Congressman Burgess, it is my opinion that a national definition for “non-GMO” is preferable for the U.S. food supply chain if that definition is used for national labeling rules and guidelines.

2) It would be inherently unfair for a company to have to go through the non-GMO certification twice. Don’t you agree?

Congressman Burgess, It would be inefficient and I would encourage Congress to ensure that duplication of effort is avoided through the legislative process.

3) You discuss in your testimony that this coordinated campaign of labeling advocates is part of a strategy to end the use of biotechnology in food and agricultural production. How so?

Congressman Burgess, activists representing aggressive groups within the organic foods community have been clear that they want mandatory warning labels to force food manufacturers to re-source their raw ingredients to organic ingredients for example. They believe they can damage American food brands through social media campaigns intended to convince consumers that GMO ingredients are dangerous and companies will demand farmers to grow organic food.

4) If they were successful in these efforts, how would that impact our ability to provide affordable and nutritious food to American families?

Congressman Burgess, branded products have value and manufacturers have a responsibility to protect the reputation of those brands. If warning labels are required for safe ingredients, over time food manufacturers will be forced to find alternative and more expensive ingredients. If there is a patchwork of state laws and rules then compliance becomes virtually impossible and the costs are incalculable. However, those costs will have to be passed onto the consumers, whether they can afford it or not.

5) Would it not raise food costs for working people in our country?

Congressman Burgess, yes, the campaign to establish a system of warning labels for safe ingredients will impact every consumer.

6) Have there been any medically documented cases of people getting sick from eating a food derived from genetically engineered crops?

Congressman Burgess, no, to my knowledge, there are no medically documented cases of people getting sick from genetically engineered food.

The Honorable Representative Cardenas

I understand that there is already an independent private sector certification body for foods produced without genetic engineering.

1) What impact would this new legislative language have on existing private label non-GMO claims?

Congressman Cardenas, I understand the legislation provides broad authority for the USDA to establish rules for a certification program and I am not aware how those future rules will impact private sector certification entities.

2) Since the cost of certifying non-GMO products is currently not being borne on the tax payer, how much would it cost to create the new USDA certification standard for GE and non-GMO.

Congressman Cardenas, the USDA is better suited at determining how much it will cost the government to establish a certification standard. Private sector cost impacts will vary by company.

A number of major food brands produce organic lines in addition to their conventional brands. The U.S. also exports a large amount of Identity Preserved non-GMO grain to export markets in Europe and Asia.

3) So to what extent is there already segregation in the supply chain and would that be close to sufficient if GE foods were required to be labeled at a federal level? Are there enough farmers and farm workers to produce a sufficient amount of non-GMO or organic food?

Congressman Cardenas, the U.S. food supply chain is extraordinarily efficient and for conventional foods I am not aware of product segregation for ingredients that are ubiquitous in the food supply, like corn and soybeans. Organic lines are specialty products and depending on the product may require more hands-on farming practices. Today organic food accounts for about 4% of U.S. food sales and is growing. Finding adequate numbers of seasonal farm workers has long been a challenge.

4) Will labeling GE food increase costs to consumers?

Congressman Cardenas, the U.S. food supply chain is highly efficient and grocery manufacturing is a high volume, low margin business. The campaign to establish a patchwork of state labeling mandates will disrupt the supply chain resulting in companies having to buy more expensive ingredients or suffer harm to their brands by having a warning label for safe ingredients. Legal compliance will disrupt vital efficiencies in the business model and consumers will bear the brunt of higher costs.

5) What should the de minimis threshold level for a mandatory label be? It is impossible to be at zero. So above which point should a label be required for processed food? The United Kingdom has set their standard at 9/10ths of 1%. Where should we set ours?

Congressman Cardenas, the threshold should be part of a national standard and it's a number that should be determined through the USDA rulemaking process.

FRED UPTON, MICHIGAN
CHAIRMAN

FRANK PALLONE, JR., NEW JERSEY
RANKING MEMBER

ONE HUNDRED FOURTEENTH CONGRESS
Congress of the United States
House of Representatives
COMMITTEE ON ENERGY AND COMMERCE
2125 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6115
Majority (202) 225-2927
Minority (202) 225-3641

July 13, 2015

Mr. Todd W. Daloz
Assistant Attorney General
Office of the Attorney General
State of Vermont
109 State Street
Montpelier, VT 05609

Dear Mr. Daloz:

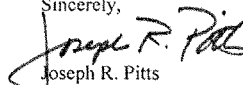
Thank you for appearing before the Subcommittee on Health on June 18, 2015, to testify at the hearing entitled "A National Framework for the Review and Labeling of Biotechnology in Food."

Pursuant to the Rules of the Committee on Energy and Commerce, the hearing record remains open for ten business days to permit Members to submit additional questions for the record, which are attached. The format of your responses to these questions should be as follows: (1) the name of the Member whose question you are addressing, (2) the complete text of the question you are addressing in bold, and (3) your answer to that question in plain text.

To facilitate the printing of the hearing record, please respond to these questions with a transmittal letter by the close of business on July 27, 2015. Your responses should be mailed to Graham Pittman, Legislative Clerk, Committee on Energy and Commerce, 2125 Rayburn House Office Building, Washington, D.C. 20515 and e-mailed in Word format to graham.pittman@mail.house.gov.

Thank you again for your time and effort preparing and delivering testimony before the Subcommittee.

Sincerely,


Joseph R. Pitts
Chairman
Subcommittee on Health

cc: The Honorable Gene Green, Ranking Member, Subcommittee on Health

Attachment

Attachment — Questions for the Record

The Honorable Representative Burgess

As you may know, the USDA's National Organic Program (NOP) regulates the production and labeling of organic foods. Organic certification is required if a product is to be labeled as an organic product under the USDA. To comply with the NOP, a company must adhere to the NOP requirements, which in the case of an agricultural product derived from animals prohibits the use of GMO feed, the use of growth of hormones, and the use of antibiotics. According to the draft bill language before you, the type of feed used in creating a covered agricultural product derived from animals is not specifically defined.

1. Do you agree that there should be one definition for "non-GMO" under federal law because otherwise consumers will be deceived as to what "non-GMO" on a label actually means?

ANSWER: There is value in a unified standard for foods marketed as "non-GMO," so long as that standard meets the general consumer perception that a non-genetically engineered food be produced from non-GE seed, avoid any GE inputs, and be segregated from other GE materials throughout the production and distribution chain. That said, the standard need not be federally mandated, but could be adopted locally, similar to the origins of the organic standard before the National Organic Program was created. Currently, the "non-GMO" label is essentially regulated by the private market, but the Discussion Draft of H.R. 1599 (July 12, 2015 version – hereinafter "Disc. Dft.") would replace this market-regulation with an ill-defined and not immediately available federal standard.¹

Importantly, the federal regulatory structure H.R. 1599 proposes would not necessarily create a unified national standard because each of the independent "certifying agents," *see* Disc. Dft. at 12:17- 13:2, sec. 201 (identifying "chief executive officer of a State" along with "any person (including a private entity) who is accredited by the Secretary [of Agriculture]" to act as a certifying agent), has broad discretion whether to accept a "nongenetically engineered food plan" from a producer – a necessary step before labeling a product as "non-GMO." *See* Disc. Dft. at 17:16-22, sec. 201. With no clear regulatory standard in place and a multiplicity of certifying agents, there is no guaranteed unity in a future "non-GMO" definition.

The Honorable Representative Burgess

A company that has already met the definition of organic has met the federal definition of non-GMO and therefore should automatically be eligible for a new, non-GMO certification should a new non-GMO labeling program be created.

2. It would be inherently unfair for a company to have to go through the non-GMO certification process twice. Don't you agree?

¹ The Discussion Draft that was the subject of the June 18, 2015, hearing would have immediately halted any private use of a "non-GMO" claim; the current draft (July 12, 2015) would halt current private labeling 36 months after the law's enactment.

June 18, 2015 Hearing: "A National Framework for the Review and Labeling of Biotechnology in Food"
 Daloz Additional Testimony – H.R. 1599

ANSWER: It is not clear from the Discussion Draft that there is a fully developed "definition for 'non-GMO' under federal law," but the National Organic Program does provide a meaningful alternative. For this reason, Vermont's labeling law considers "Organic" certification, under the National Organic Program, to be sufficient to verify that a food need not be labeled as being produced with genetic engineering.

The Honorable Representative Burgess

- 3. You discuss in your testimony that this coordinated campaign of labeling advocates is part of a strategy to end the use of biotechnology in food and agricultural production. How so?**

ANSWER: I did not testify regarding any coordinated campaign of labeling advocates, nor is Vermont's law a "strategy to end the use of biotechnology in food and agricultural production." Vermont's law merely requires a simple factual notification for consumers on products produced with genetic engineering.

The Honorable Representative Burgess

- 4. If they were successful in these efforts, how would that impact our ability to provide affordable and nutritious food to American families?**

ANSWER: I have no information on this issue.

The Honorable Representative Burgess

- 5. Would it not raise food costs for working people in our country?**

ANSWER: It is unlikely that the inclusion of a four-word factual disclosure, as required by Vermont's law, would raise food costs for Americans beyond a minimal increase associated with the initial labeling change.

The Honorable Representative Burgess

- 6. Have there been any medically documented cases of people getting sick from eating a food derived from genetically engineered crops?**

ANSWER: I am not aware of any case identifying the genetically engineered component of the food as the direct cause of the illness, though there have been allegations of such a link. *See, e.g.,* Luca Bucchini & Lynn Goldman, *Starlink Corn: A Risk Analysis*, 110:1 *Env'tl. Health Perspectives* 5 (2002) available at <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC1240687/>. Regardless, a causal connection would be difficult to identify because, currently, consumers are not able to determine which food they eat is produced with genetic engineering. Vermont's law would provide them with that simple information. H.R. 1599, if enacted, would continue the food industry's avoidance of this factual disclosure.

The Honorable Representative Griffith

Mr. Daloiz, industry is concerned about potential for private actions against manufacturers. Under your law, I believe the law is maybe unclear on that point.

- 1. Does Vermont's law block private rights of action against manufacturers and suppliers?**

ANSWER: No, it does not prevent private rights of action.

The Honorable Representative Griffith

And if the answer is no:

- 2. What do you intend to do to limit liability when a product is put on a shelf in Vermont, despite the fact that the manufacturer did not intend for it to end up there?**

ANSWER: The Attorney General has broad prosecutorial discretion in bringing an enforcement action under Act 120 and may take steps short of bringing an enforcement action to ensure compliance with the labeling requirements. Given enforcement priorities and limited available resources, the office does not intend to direct formal enforcement actions at accidental, isolated violations.

The Honorable Representative Cardenas

I understand that there is already an independent private sector certification body for foods produced without genetic engineering.

- 1. What impact would this new legislative language have on existing private label non-GMO claims?**

ANSWER: In the short-term, the current Discussion Draft – unlike the draft discussed at the June 18th hearing, which would have halted all such labeling upon passage – would permit private non-GE labeling claims to continue for three years. After that time, private labels would have to comply with the as-yet-undefined standards to be created by the USDA. *See* Disc. Dft. at 32:10-18, sec. 204. As noted above, because so many entities potentially qualify as “certifying agents,” *see* Disc. Dft. at 12:17- 13:2, sec. 201, there is the very real possibility that any enacted federal standard could be implemented differently throughout the country.

The Honorable Representative Cardenas

- 2. Since the cost of certifying non-GMO products is currently not being borne on the tax payer, how much would it cost to create the new USDA certification standard for GE and non-GMO foods?**

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Daloiz Additional Testimony – H.R. 1599

ANSWER: I do not have access to an independent analysis of the potential costs of establishing such a program because it is not contemplated in Vermont’s law. Given the potential similarities, the costs (in terms of time and money) of establishing the National Organic Program could provide a comparable model.

The Honorable Representative Cardenas

A number of major food brands produce organic lines in addition to their conventional brands. The U.S. also exports a large amount of Identity Preserved non-GMO grain to export markets in Europe and Asia.

- 3. So to what extent is there already segregation in the supply chain and would that be close to sufficient if GE foods were required to be labeled at a federal level? Are there enough farmers and farm workers to produce a sufficient amount of non-GMO or organic food?**

ANSWER: It is not the intent of Vermont’s law to alter the market and the law in no way restricts the sale of properly-labeled GE foods. Act 120 provides information for consumers on which to base their own purchasing decisions. If a federal labeling requirement were to shift demand away from GE foods – a question I am not equipped to answer – I would note only that markets generally respond to consumer demands.

The Honorable Representative Welch

- 1. In response to Representative Pompeo's question regarding the effect H.R. 1599 would have on voluntary state GE labeling efforts, you suggested the bill would prohibit state labeling of GE ingredients, such as the labeling regimen currently being implemented in Vermont. Could you please further explain your rationale? Given your position in the Vermont Attorney General's office, what impact do you believe this legislation would have on Vermont's GE labeling efforts?**

ANSWER: H.R. 1599 would categorically halt Vermonters’ efforts to have accurate, factual disclosures on their food explaining whether the food was produced with genetic engineering. *See* Disc. Dft. at 30:23-32:2, sec. 203. While the law gives passing attention to codifying the existing consultation process for new GE varieties at the FDA, in each of its iterations, its main goal has remained preempting Vermont’s labeling law months before a single labeled item arrives on the shelf of a Vermont supermarket. Indeed, the bill contains no fewer than three express preemption sections, all aimed at aspects of Vermont’s Act 120 and all preventing any other state from charting a similar course. *See* Disc. Dft. at 10:3-12, sec. 113 (broadly preempting “any requirement with respect to genetically engineered plants for the use or application in food” that is different from the requirements of H.R. 1599); *id.* at 30:23-32:2; sec. 203 (immediately preempting any state “requirement for labeling” unless the labeling is voluntary); *id.* 34:21-35:7, sec. 303 (preempting any state effort to regulate the use of the term “natural” on food products).

Simply put, if passed, H.R. 1599 would not merely displace Act 120 as if it had never been passed, it would prevent all efforts to provide the factual disclosure Vermonters’ sought in

June 18, 2015 Hearing: “A National Framework for the Review and Labeling of Biotechnology in Food”
 Daloz Additional Testimony – H.R. 1599

enacting a mandatory GE labeling law. Opponents of Act 120 claim that a federal system of labeling will avoid a “patchwork” of regulation, but this contention holds no water for two important reasons. First, there is currently only a “patch” of one – Vermont’s labeling law. Second, a voluntary GE labeling regime, as established in H.R. 1599, is clearly insufficient to adequately inform consumers. To suggest that a producer – the same producers spending millions of dollars fighting Vermont’s labeling law in court and Congress – would voluntarily label its products as produced with GE, is simply irrational.

The Honorable Representative Welch

2. **The FDA has stated that there is consensus on the safety of GE foods for human consumption. When asked about the FDA's position during the hearing, you seemed to agree with the FDA statement. However, it remains unclear if you were acknowledging the fact that FDA has indeed made that statement, or if you were supporting the validity of its underlying position, namely that GE foods are indeed safe to consume. Please elaborate on your position — do you agree GE foods are safe for human consumption?**

ANSWER: In responding to Chairman Pitts’ question, I agreed that the FDA had previously testified to the consensus on the safety of GE foods, not that Vermont necessarily supported or agreed with the FDA’s statement. After hearing hours of testimony, the Vermont Legislature determined that there is no scientific consensus on the safety of GE foods for human consumption. And in the absence of such consensus, consumers should be able to consider whether products contain GE ingredients when making decisions regarding what to purchase and ingest. That is the goal of Vermont’s Act 120—to provide consumers information. Additionally, as new GE food varieties make their way through the largely voluntary regulatory process, the potential for danger to human and environmental safety increases. Without accurate labeling, drawing a causal link between products and health effects is increasingly difficult. The recent studies showing the dangers the herbicide glyphosate poses to human health are a prime example of this ever evolving concern.

FRED UPTON, MICHIGAN
CHAIRMAN

FRANK PALLONE, JR., NEW JERSEY
RANKING MEMBER

ONE HUNDRED FOURTEENTH CONGRESS
Congress of the United States
House of Representatives
COMMITTEE ON ENERGY AND COMMERCE
2125 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6115
Majority (202) 225-2927
Minority (202) 225-3641

July 13, 2015

Mr. John Reifsteck
Chairman of the Board
GROWMARK
1007 County Road, 900 East
Champaign, IL 61822

Dear Mr. Reifsteck:

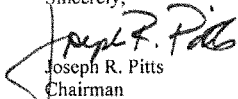
Thank you for appearing before the Subcommittee on Health on June 18, 2015, to testify at the hearing entitled "A National Framework for the Review and Labeling of Biotechnology in Food."

Pursuant to the Rules of the Committee on Energy and Commerce, the hearing record remains open for ten business days to permit Members to submit additional questions for the record, which are attached. The format of your responses to these questions should be as follows: (1) the name of the Member whose question you are addressing, (2) the complete text of the question you are addressing in bold, and (3) your answer to that question in plain text.

To facilitate the printing of the hearing record, please respond to these questions with a transmittal letter by the close of business on July 27, 2015. Your responses should be mailed to Graham Pittman, Legislative Clerk, Committee on Energy and Commerce, 2125 Rayburn House Office Building, Washington, D.C. 20515 and e-mailed in Word format to graham.pittman@mail.house.gov.

Thank you again for your time and effort preparing and delivering testimony before the Subcommittee.

Sincerely,


Joseph R. Pitts
Chairman
Subcommittee on Health

cc: The Honorable Gene Green, Ranking Member, Subcommittee on Health

Attachment

Attachment---Additional Questions for the RecordThe Honorable Representative Burgess

As you may know, the USDA's National Organic Program (NOP) regulates the production and labeling of organic foods. Organic certification is required if a product is to be labeled as an organic product under the USDA. To comply with the NOP, a company must adhere to the NOP requirements, which in the case of an agricultural product derived from animals prohibits the use of GMO feed, the use of growth hormones, and the use of antibiotics. According to the draft bill language before you, the type of feed used in creating a covered agricultural product derived from animals is not specifically defined.

1. Do you agree that there should be one definition for "non-GMO" under federal law because otherwise consumers will be deceived as to what "non-GMO" on a label actually means?

I agree there should be a single, transparent standard for labeling food derived from ingredients utilizing biotechnology. Furthermore, I think a collage of varying state and local labeling laws would stigmatize biotechnology as being unsafe or unhealthy which will jeopardize the future use of the technology.

A company that has already met the definition of organic has met the federal definition of non-GMO and therefore should automatically be eligible for a new, non-GMO certification should a new non-GMO labeling program be created.

2. It would be inherently unfair for a company to have to go through the non-GMO certification process twice. Don't you agree?

I do not have the expertise to comment on the effectiveness of the NOP certification program but do believe that common definitions and standards should be utilized under both programs.

3. You discuss in your testimony that this coordinated campaign of labeling advocates is part of a strategy to end the use of biotechnology in food and agricultural production. How so?

Our safe and affordable food supply system in the United States is the result of the application of safe technology on the farm combined with efficient manufacturing and distribution of food. A patchwork of state and local food labeling laws would unscientifically prejudice consumers. Many manufacturers might decide it would be more efficient to completely eliminate GMO products rather than try to manufacture and distribute foods in smaller quantities to meet those local label requirements.

4. If they were successful in these efforts, how would that impact our ability to provide affordable and nutritious food to American families?

GMO technology allows farmers to produce greater yields with fewer inputs, and less environmental impact. The bottom line is, without the use of biotechnology, food will be just as nutritious but less affordable and less abundant.

5. Would it not raise food costs for working people in our country?

American agriculture has demonstrated that improvements in technology on the farm result in lower food costs to consumers. Regulations that impede the use of biotechnology will result in higher cost of production for farmers, and more expensive food.

6. Have there been any medically documented cases of people getting sick from eating a food derived from genetically engineered crops?

Not to my knowledge. It is my understanding that all major worldwide health organizations that have studied the safety of consuming genetically engineered crops have found they are as safe as their conventional counterparts.

The Honorable Representative Lance

1. Can you elaborate on the Coordinated Framework for Regulation of Biotechnology by the United States? What is the process for developing and bringing to market a "GMO" product? What kind of research and testing must be conducted? What agencies must evaluate the technology?

To my knowledge, agricultural biotechnology products in the U.S. are regulated by three agencies: the U.S. Department of Agriculture (USDA), the Environmental Protection Agency (EPA) and the Food and Drug Administration (FDA). However, I am not an expert on the process of the development and approval of new seed technologies.

2. As a farmer, how do you determine what type of seeds to plant on your land? Why have you continued to utilize biotechnology seeds?

The selection of seed is one of the most important decisions that I make on my farm. There certainly is a difference in yield between different kinds of seeds. Yield is the result of the genetic capability of the seed combined with the farmer's ability to manage insects, weeds, disease and water. Biotech seeds prevent insects from damaging the crop and also allow for the use of more effective weed control systems. Controlling insects and weeds results in the maximum utilization of water. Biotech seeds can be more expensive, but farmers can choose if the benefits they bring are worth the extra expense.

Biotech crops are invaluable to my operation. In my lifetime of farming, I have had to abandon parts of fields riddled with insect damage. Harvesting fields damaged by insects or overcome by weeds are not just an economic loss, they present a real risk of physical harm to farmers and farm workers. Using biotech-developed crops has helped me to avoid many of these problems today. I also know that the crops I grow today, benefiting from

biotechnology, are just as safe and healthy as the crops grown by my parents and grandparents.

The Honorable Representative Cardenas

I understand that there is already an independent private sector certification body for foods produced without genetic engineering.

1. What impact would this new legislative language have on existing private label non-GMO claims?

I don't have the expertise necessary to answer this question.

2. Since the cost of certifying non-GMO products is currently not being borne on the tax payer, how much would it cost to create the new USDA certification standard for GE and non-GMO foods?

I don't have the expertise necessary to answer this question.

A number of major food brands produce organic lines in addition to their conventional brands. The U.S. also exports a large amount of Identity Preserved non-GMO grain to export markets in Europe and Asia.

3. So to what extent is there already segregation in the supply chain and would that be close to sufficient if GE foods were required to be labeled at a federal level? Are there enough farmers and farm workers to produce a sufficient amount of non-GMO or organic food?

Farmers have always been very good at responding to the marketplace and customer demands. Today there are farmers who currently choose to grow conventional or organic crops to fulfill that portion of the market, and segregation of that part of the supply chain exists. When we eliminate technology it requires more resources to produce food. Those resources include farmers and farm labor, but also land, water and plant nutrients. The cost to society and the environment from eliminating technology on the farm would be very high.

FRED UPTON, MICHIGAN
CHAIRMAN

FRANK PALLONE, JR., NEW JERSEY
RANKING MEMBER

ONE HUNDRED FOURTEENTH CONGRESS
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WASHINGTON, DC 20515-6115
Majority (2021) 225-2927
Minority (2021) 225-2841

July 13, 2015

Mr. Gregory Jaffe
Biotechnology Project Director
Center for Science in the Public Interest
1220 L Street, N.W.
Washington, D.C. 20005

Dear Mr. Jaffe:

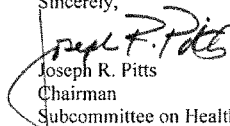
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Thank you again for your time and effort preparing and delivering testimony before the Subcommittee.

Sincerely,


Joseph R. Pitts
Chairman
Subcommittee on Health

cc: The Honorable Gene Green, Ranking Member, Subcommittee on Health

Attachment



July 15, 2015

The Honorable Joseph R. Pitts
Chairman
Subcommittee on Health, Committee on Energy and Commerce
U.S. House of Representatives
2125 Rayburn House Office Building
Washington, DC 20215-6115

Dear Chairman Pitts:

Thank you for the opportunity to testify at the hearing entitled "A National Framework for the Review and Labeling of Biotechnology in Food," before the Subcommittee on Health on June 18, 2015.

Please find my responses to the Members' questions in the attached document. I have also attached several papers to provide context to one of my responses. Please do not hesitate to contact me should you or other Members have further questions.

Thank you again for the opportunity to testify before the Subcommittee.

Sincerely,


Gregory Jaffe
Director, Biotechnology Project

FRED UPTON, MICHIGAN
CHAIRMAN

FRANK PALLONE, JR., NEW JERSEY
RANKING MEMBER

ONE HUNDRED FOURTEENTH CONGRESS
Congress of the United States
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2125 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6115
Majority (2021 225-2927)
Minority (2021 225-3641)

July 13, 2015

Mr. Val Giddings
Senior Fellow
Information Technology and
Innovation Foundation
9004 Fairview Road
Silver Spring, MD 20910

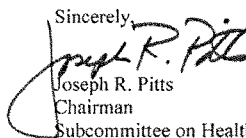
Dear Mr. Giddings:

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Joseph R. Pitts
Chairman
Subcommittee on Health

cc: The Honorable Gene Green, Ranking Member, Subcommittee on Health

Attachment

Attachment — Additional Questions for the Record

The Honorable Representative Guthrie

1. When it comes to the rigorous safety reviews that you mentioned at length in your testimony, could you put into laymen terms what some of the key components of a safety study are that meets widely accepted standards? Put another way, what qualifies as strong data or evidence in your field?

As I understand the very basics of the FDA consultation process, a developer first defines the distinguishing attributes of a food and analyzes it for levels of toxins and allergens, and compares the food to a traditionally bred counterpart. Then the FDA evaluates the developer's safety assessments and considers relevant data and information.

2. Beyond the developer's safety study itself, what other relevant data and information does the FDA consider?
3. Does the FDA rely on independent studies when reviewing a food?

You mention in your testimony that the FDA requires labeling of "any food that has been changed, by any means, so that its composition is different in any way related to health, safety, or nutrition."

4. Could you briefly define the word "food" as it's used in this context?

The Honorable Representative Burgess

As you may know, the USDA's National Organic Program (NOP) regulates the production and labeling of organic foods. Organic certification is required if a product is to be labeled as an organic product under the USDA. To comply with the NOP, a company must adhere to the NOP requirements, which in the case of an agricultural product derived from animals prohibits the use of GMO feed, the use of growth of hormones, and the use of antibiotics. According to the draft bill language before you, the type of feed used in creating a covered agricultural product derived from animals is not specifically defined.

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3. You discuss in your testimony that this coordinated campaign of labeling advocates is part of a strategy to end the use of biotechnology in food and agricultural production. How so?
4. If they were successful in these efforts, how would that impact our ability to provide affordable and nutritious food to American families?
5. Would it not raise food costs for working people in our country?
6. Have there been any medically documented cases of people getting sick from eating a food derived from genetically engineered crops?

The Honorable Representative Lance

1. It appears to me that perhaps much of the uncertainty some people have regarding this technology is due to a lack of understanding of what GMOs are and how they are made. Can you describe, in layman's terms, what a genetically modified organism is and walk us through the process of how they are developed?
2. Dr. Giddings, in your testimony you mentioned the term "conventional breeding" as compared to "recombinant techniques". Can you explain those terms to the committee and elaborate on the differences between the two techniques? When and how are both techniques used?
3. As many today have pointed out, "FDA regulations already require that any novel ingredient that may affect the health, safety or nutritional value of a food must be identified on the label." Can you please describe for the committee the thresholds a product must meet in order to be put on the market?
4. To your knowledge have any genetically engineered (GE) foods been removed from the market due to safety concerns?

The Honorable Representative Cardenas

I understand that there is already an independent private sector certification body for foods produced without genetic engineering.

1. What impact would this new legislative language have on existing private label non-GMO claims?
2. Since the cost of certifying non-GMO products is currently not being borne on the tax payer, how much would it cost to create the new USDA certification standard for GE and non-GMO foods?

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